Supreme Court E-Library

SO ORDERED.

Puno (Chairman), Sandoval-Gutierrez, Azcuna, and *Garcia, JJ.,* concur.

FIRST DIVISION

[G.R. No. 146874. July 20, 2006]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **SOCORRO P. JACOB,** *respondent.*

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; PROPERTY REGISTRATION DECREE; CONFIRMATION OF IMPERFECT TITLE; REQUISITES.**— Applicants for confirmation of imperfect title must, therefore, prove the following: (a) that the land forms part of the disposable and alienable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive, and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.

2. **ID.; ID.; ID.; ID.; PROPERTY OF THE PUBLIC DOMAIN IS BEYOND THE COMMERCE OF MAN AND NOT SUSCEPTIBLE OF PRIVATE APPROPRIATION AND ACQUISITIVE PRESCRIPTION.**— Under the Regalian doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. The presumption is that lands of whatever classification belong to the State. Unless public land is shown to have been reclassified as alienable or disposable to a private person by the State, it remains part of the inalienable public domain. Property of the public domain is beyond the commerce of man and not susceptible of private appropriation and acquisitive prescription. Occupation thereof in the concept of owner no matter how long cannot ripen into ownership and be registered as a title. The statute

Supreme Court E-Library

of limitations with regard to public agricultural lands does not operate against the State unless the occupant proves possession and occupation of the same after a claim of ownership for the required number of years to constitute a grant from the State. No public land can be acquired by private persons without any grant from the government, whether express or implied. It is indispensable that there be a showing of a title from the State. The rationale for the period "since time immemorial or since June 12, 1945" lies in the presumption that the land applied for pertains to the State, and that the occupants or possessor claim an interest thereon only by virtue of their imperfect title as continuous, open and notorious possession.

3. ID.; ID.; ID.; ID.; WHEN PRIVATE RESPONDENT FILED HER APPLICATION ON MAY 6, 1994, THE SUBJECT LOT WAS NO LONGER ALIENABLE AND DISPOSABLE PROPERTY OF THE PUBLIC DOMAIN BY VIRTUE OF PROCLAMATION NO. 739 WHICH DECLARED IT PART OF THE RESERVATION FOR THE DEVELOPMENT OF GEOTHERMAL ENERGY.— In the case at bar, when private respondent filed her application with the RTC on May 6, 1994, Lot No. 4094 was no longer alienable and disposable property of the public domain, since as of August 14, 1970, by virtue of Proclamation No. 739, it was segregated from the public domain and declared part of the reservation for the development of geothermal energy. Private respondent filed her application for confirmation 24 years after the said proclamation was issued; thus, the period of her possession and occupancy after such proclamation can no longer be tacked in favor of the claimant.

4. ID.; ID.; ID.; ID.; PRIVATE RESPONDENT CANNOT CLAIM VESTED RIGHT OVER THE SUBJECT LOT AS SHE FAILED TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT ALL SUBSTANTIVE REQUISITES FOR THE ACQUISITION OF PUBLIC LANDS HAD BEEN COMPLIED WITH.— The Court notes that on October 25, 1975, the Secretary of Justice issued an opinion stating that Proclamation No. 739 was without prejudice to the vested rights of individuals/applicants who had fully complied with all the requirements under the Public Land Law for the acquisition of ownership as alienable and disposable. It bears stressing, however, that one claiming private rights under the Public Land Act, as amended, must prove by clear and convincing evidence that *all the substantive requisites*

Supreme Court E-Library

for acquisition of public lands (along with the procedural) had been complied with. As pointed out by petitioner, private respondent failed to adduce clear and convincing evidence that by August 14, 1970, she had already acquired ownership over the property by herself or through her predecessors-in-interest through open, continuous, exclusive and notorious possession and occupation of the property since 1945 or earlier.

5. ID.; ID.; ID.; ID.; ACTUAL POSSESSION OF A LAND CONSISTS IN THE MANIFESTATION OF ACTS OF DOMINION OF SUCH A NATURE AS A PARTY WOULD NATURALLY EXERCISE OVER HER OWN PROPERTY.— Indeed, the law speaks of "*possession and occupation.*" Possession is broader than occupation because it includes constructive possession. Unless, therefore, the law adds the word "occupation," it seeks to delimit the all-encompassing effect of constructive possession. Taken together with the words "continuous," "exclusive" and "notorious," the word "occupation" seems to highlight the facts that for an applicant to qualify, her possession of the property must not be a mere fiction. Actual possession of a land consists in the manifestation of acts of dominion of such a nature as a party would naturally exercise over her own property. A mere casual cultivation of portions of land by the claimant does not constitute sufficient basis for a claim of ownership. Such possession is not exclusive and notorious as it gives rise to a presumptive grant from the State. The applicant is burdened to offer proof of specific acts of ownership to substantiate the claim over the land. The good faith of the person consists in the reasonable belief that the person from whom she received the property was the owner thereof and could transfer ownership.

6. ID.; ID.; ID.; ID.; ID.; DOCUMENTARY EVIDENCE ADDUCED BY PRIVATE RESPONDENT ARE INSUFFICIENT TO PROVE ACQUISITION OF OWNERSHIP OVER THE SUBJECT LOT.— While tax receipts and tax payment receipts themselves do not convincingly prove title to the land, these are good indicia of possession in the concept of an owner, for no one in his right mind would pay taxes for a property that is not in his actual or, at least, constructive possession. They constitute, at the least, proof that the holder has a claim of title over the property, particularly when accompanied by proof of actual possession. The voluntary declaration of a piece of property

Supreme Court E-Library

for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the State and all other interested parties with an intention to contribute needed revenues to the government. Such an act strengthens one's *bona fide* claim of acquisition of ownership. In this case, however, private respondent failed to offer in evidence the deed of sale purportedly executed by Sotero Bondal in favor of Macario Monjardin as vendee. On cross-examination, she admitted that the only deed of sale she had was the deed of absolute sale Macario Monjardin executed in favor of her parents, the spouses Igmedio Patricio. The documentary evidence adduced by private respondent even belies her claim that Sotero Bondal sold the property to her uncle. She even failed to identify "B.C. Monjardin," much less explain whether such person was really her uncle. She even failed to adduce in evidence any tax declaration over the property under his name and that he paid the realty taxes for the property from 1930 to 1946.

7. **ID.; ID.; ID.; ID.; NO EVIDENCE OF OPEN, CONTINUOUS, ADVERSE AND ACTUAL POSSESSION OF THE SUBJECT LOT IN CASE AT BAR.**— The fact that the blue print copy of the tracing cloth plan covering the subject lot as of 1991 was still in the name of Sotero Bondal is proof that not all the records of the Land Management Authority relative to the property had been lost. Unless and until respondent offered credible evidence that Monjardin had purchased the property from Bondal, it cannot be said that the spouses Igmedio Patricio acquired the rights and interests of Bondal over the property through Monjardin; private respondent cannot even tack her own possession of the property to that of her parents. In fact, she failed to adduce evidence that her uncle had been in open, continuous and adverse possession of the property. While she claimed that her mother was designated as *encargado,* private respondent failed to even mention the portion of the property that was cultivated, or at least where and who planted the *palay*. Such declaration (that Macario designated her mother as *encargado*) without more does not constitute preponderant evidence to prove adverse, continuous, open, public, and peaceful possession in the concept of owner. Private respondent's testimony that after her parents purchased the lot, they began receiving the share of the produce of the property

Supreme Court E-Library

does not in itself constitute proof of such adverse possession. There is thus no evidence that the parents of private respondent ever had open, continuous, adverse and actual possession of Lot No. 4094.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Edgardo R. Rañases for respondent.

D E C I S I O N

CALLEJO, SR., *J.*:

Before this Court is a Petition for Review on *Certiorari* filed by the Republic of the Philippines assailing the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 53606, which affirmed the ruling of the Regional Trial Court (RTC), Branch 17, Tabaco, Albay, in Land Registration Case No. T-210. In the said case, the RTC granted the application of private respondent Socorro P. Jacob for confirmation of her title to Lot No. 4094, Cad-249, Malinao Cadastre of Plan AP-05-002078 in *Barangay* Balading, Malinao, Albay.

The antecedents follow:

On August 14, 1970, then President Ferdinand E. Marcos issued Proclamation No. 739, "Establishing as Reservation for the Purpose of the Exploration, Development, Exploitation and Utilization of Geothermal Energy, Natural Gas and Methane Gas a Parcel of Land in the Province of Albay, Island of Luzon, Philippines." Lot No. 4094 of the Malinao Cadastre, consisting of 15,520 square meters, is covered by the said proclamation.

Nevertheless, on May 6, 1994, private respondent, a retired public school teacher, filed an application with the RTC of Albay

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[1] Penned by Associate Justice Ruben T. Reyes (now Presiding Justice) with Associate Justices Presbitero J. Velasco, Jr. (now an Associate Justice of the Supreme Court) and Juan Q. Enriquez, Jr., concurring.

Supreme Court E-Library

for the confirmation and registration of her alleged title over Lot No. 4094.

The Republic of the Philippines, through the Office of the Solicitor General (OSG), opposed the application for the following reasons:

> 3. That the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by the applicant/s who have failed to file an appropriate application for registration within the period of six (6) months from February 16, 1976 as required by P.D. No. 892. From the records, it appears that the instant application was filed on May 6, 1994.
>
> 4. That the parcel/s applied for is/are portions of the public domain belonging to the Republic of the Philippines not subject to private appropriation.[2]

Private respondent appended to her application the tracing cloth plan of the property under the name of Sotero Bondal. The blue print,[3] dated February 27, 1991, was prepared and signed by Geodetic Engineer Bonifacio C. del Valle and approved by Ernesto L. Llave, Chief, Regional Surveys Division of the Lands Management Service. Per Report[4] of the Land Registration Authority dated September 27, 1994, the property was the subject of an application for registration (Cadastral Case No. 42, GLRO Cadastral Record No. 1324), but "no decision has been rendered thereon, or if there had been any, no copy of the same was furnished to the [Land Registration Authority]." The report also states that the property is covered by Free Patent No. V-13062 dated May 21, 1955.[5] Private respondent had also applied for a free patent over the property, but withdrew her application in a Letter[6] dated October 27, 1994 addressed to the Department of Environment and Natural Resources, Region V, Legaspi City.

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[2] Records, p. 76.

[3] *Id.* at 70.

[4] *Id.* at 60-61.

[5] *Id.* at 60.

[6] *Id.* at 124.

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Private respondent adduced the following evidence and factual allegations to support her application before the RTC:

The previous owner of Lot No. 4094, Sotero Bondal, sold the property to Macario Monjardin,[7] a brother of private respondent's mother, Josefa Monjardin Patricio. Macario declared the property in his name under Tax Declaration (T.D.) No. 18854[8] in 1930, superseding T.D. No. 15956, and again in 1949 under T.D. No. 7117.[9] Since Macario was residing in Manila and was unable to cultivate the property, he asked his sister, Josefa to be his *encargado*. By then, private respondent was already a 17-year old substitute teacher who then accompanied her mother in supervising the planting and harvesting of *palay* and the improvement of the lot.

Sometime in 1946, Macario decided to marry. On January 31, 1946, he sold the property and executed a deed of sale[10] in favor of the spouses Igmedio A. Patricio and Josefa Monjardin-Patricio, as vendees, for ₱400.00. The spouses thereafter received their share of the produce as owners, but failed to declare the property for taxation purposes under their names.

In 1947, Josefa Patricio died intestate and was survived by her husband Igmedio and private respondent. T. D. No. 7117 was cancelled effective 1960 by T.D. No. 11602[11] under the name of "Egmidio A. Patricio." The realty taxes due on the property from 1949 to 1959 were paid on April 16, 1959.[12] Igmedio died intestate in 1968, and on May 8, 1971, private respondent executed an Affidavit of Extrajudicial Adjudication[13] where she declared that as sole heir of the spouses Igmedio Patricio, she was the sole owner of the property.

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[7] TSN, March 2, 1995, p. 22.

[8] Exhibit "U", records, p. 127.

[9] Exhibit "T", *id.* at 126.

[10] Exhibit "I", *id.* at 116.

[11] Exhibit "J", *id.* at 117.

[12] Exhibit "S", *id.* at 125.

[13] Exhibit "H", *id.* at 115.

Supreme Court E-Library

Lot No. No. 4094 was declared for taxation purposes under the name of Socorro under T. D. No. 00530[14] effective 1985. On July 7, 1983, she paid the realty taxes over the property from 1960 to 1983, and from 1983 to 1995.[15]

When cross-examined, private respondent admitted that she had no copy of the deed of sale executed by Sotero Bondal in favor of Macario Monjardin.[16]

The Republic of the Philippines did not offer any evidence to support its opposition to the application.

On January 30, 1996, the trial court rendered judgment in favor of the applicant. The *fallo* of the decision reads:

WHEREFORE, Lot No. 4094 of Plan Ap-05-002078, Cad-249, Malinao Cadastre, more particularly in the corresponding plan and technical description (Exhibits "O" and "N"), is hereby ordered REGISTERED and CONFIRMED in the name of Socorro Jacob, of legal age, married to Elias Jacob, and a resident of Barangay 7, Balintawak Street, Albay District, Legazpi City pursuant to paragraph (1), Section 14 of the Presidential Decree No. 1529, otherwise known as the Property Registration Decree.

Once this decision becomes final, let the corresponding decree and Original Certificate of Title be issued in favor of said applicant.

SO ORDERED.[17]

The Republic of the Philippines, through the Office of the Solicitor General, appealed the decision to the CA on the following ground:

THE HONORABLE COURT ERRED IN FINDING THAT APPELLEE HAS A REGISTRABLE RIGHT OVER LOT NO. 4049 OF THE MALINAO CADASTRE AND THAT HER POSSESSION AND THAT OF HER PREDECESSORS-IN-INTEREST OVER THE

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[14] Exhibit "L", *id.* at 119.

[15] Exhibit "S", *supra* note 12.

[16] TSN, March 2, 1995, p. 22.

[17] Records, p. 134.

Supreme Court E-Library

SAID LOT FOR MORE THAN TWENTY SEVEN (27) YEARS WAS IN THE CONCEPT OF OWNER.[18]

The OSG averred that private respondent failed to prove her claim that the original owner of the property, Sotero Bondal, sold the property to her uncle Macario Monjardin. It was likewise pointed out that private respondent admitted that she had no copy of any such deed of sale. The fact that the property was declared under the name of Sotero Bondal in 1991 (as shown by the tracing cloth plan approved by the Land Registration Authority on February 27, 1991) negates private respondent's claim that the property was sold to Monjardin. Even assuming the existence of such sale, the OSG claimed that private respondent still failed to prove that her predecessors-in-interest had exclusive, open and adverse occupation under a *bona fide* claim of ownership over the property since June 12, 1945 or earlier, up to August 14, 1970 when the property was declared as a reservation under Proclamation No. 739.[19]

Private respondent opted not to file any brief.

On January 20, 2001, the CA rendered judgment affirming the appealed decision. It declared that although private respondent failed to adduce in evidence the deed of sale executed by Sotero Bondal in favor of Macario Monjardin, her testimony that the sale took place was enough. Her claims were likewise buttressed by her documentary evidence, and thus she was able to muster the requisite quantum of evidence to prove exclusive, open, and continuous possession under a *bona fide* claim of ownership for the requisite period of time before August 14, 1970. According to the appellate court, the bare fact that private respondent failed to present any evidence to corroborate such testimony did not render it self-serving.

The Republic of the Philippines, now petitioner, filed the instant petition, assailing the decision of the CA on the following grounds:

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[18] CA *rollo*, p. 22.

[19] *Id.* at 23-27.

Supreme Court E-Library

A

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT RESPONDENT HAS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE HER POSSESSION AND THAT OF HER PREDECESSOR-IN-INTEREST WITHIN THE PERIOD AND IN THE CONCEPT REQUIRED BY LAW.

B

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT RESPONDENT ACQUIRED A VESTED RIGHT OVER THE SUBJECT PARCEL OF LAND EVEN BEFORE THE EFFECTIVITY OF PROCLAMATION NO. 739 OF AUGUST 14, 1970.[20]

The parties reiterated their arguments in the CA to support their respective claims in this Court.

The petition is meritorious.

Section 48(b) of Commonwealth Act No. 141, as amended by Republic Act No. 1942, reads:

> Section 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:
>
> (b) Those who by themselves or through their predecessors in-interest therein have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

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[20] *Rollo*, p. 15.

Supreme Court E-Library

This provision was further amended by Presidential Decree (P.D.) No. 1903 by substituting the phrase "for at least thirty years" with "since June 12, 1945," thus:

> Sec. 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession, and occupation by the applicant himself or through his predecessor-in-interest, under a *bona fide* claim of acquisition of ownership, *since June 12, 1945* (emphasis supplied).

Section 14(1) of P.D. No. 1529, otherwise known as the Property Registration Decree, likewise provides:

> SEC. 14. *Who may apply.*—The following persons may file in the proper Court of First Instance [now Regional Trial Court] an application for registration of title to land, whether personally or through their duly authorized representatives:
>
> (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership *since June 12, 1945, or earlier* (italics supplied).

Applicants for confirmation of imperfect title must, therefore, prove the following: (a) that the land forms part of the disposable and alienable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive, and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.[21]

Under the Regalian doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. The presumption is that lands of whatever classification belong to the State.[22] Unless public land is shown

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[21] *Republic v. Alconaba*, G.R. No. 155012, April 14, 2004, 427 SCRA 611, 617.

[22] *Diaz-Enriquez v. Republic*, G.R. No. 141031, August 31, 2004, 437 SCRA 311, 322.

Supreme Court E-Library

to have been reclassified as alienable or disposable to a private person by the State, it remains part of the inalienable public domain. Property of the public domain is beyond the commerce of man and not susceptible of private appropriation and acquisitive prescription. Occupation thereof in the concept of owner no matter how long cannot ripen into ownership and be registered as a title.[23] The statute of limitations with regard to public agricultural lands does not operate against the State unless the occupant proves possession and occupation of the same after a claim of ownership for the required number of years to constitute a grant from the State.[24]

No public land can be acquired by private persons without any grant from the government, whether express or implied. It is indispensable that there be a showing of a title from the State. The rationale for the period "since time immemorial or since June 12, 1945" lies in the presumption that the land applied for pertains to the State, and that the occupants or possessor claim an interest thereon only by virtue of their imperfect title as continuous, open and notorious possession.

In the case at bar, when private respondent filed her application with the RTC on May 6, 1994, Lot No. 4094 was no longer alienable and disposable property of the public domain, since as of August 14, 1970, by virtue of Proclamation No. 739, it was segregated from the public domain and declared part of the reservation for the development of geothermal energy.[25] Private respondent filed her application for confirmation 24 years after the said proclamation was issued; thus, the period of her possession and occupancy after such proclamation can no longer be tacked in favor of the claimant.[26]

The Court notes that on October 25, 1975, the Secretary of Justice issued an opinion[27] stating that Proclamation No. 739

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[23] *Pagkatipunan v. Court of Appeals*, 429 Phil. 377, 389-390.

[24] *Gordula v. Court of Appeals*, 348 Phil. 670, 686-687 (1998).

[25] Records, p. 60.

[26] *Collado v. Court of Appeals*, 439 Phil. 149 (2002).

[27] *Gordula v. Court of Apeals*, 348 Phil. 670 (1998).

Supreme Court E-Library

was without prejudice to the vested rights of individuals/applicants who had fully complied with all the requirements under the Public Land Law for the acquisition of ownership as alienable and disposable. It bears stressing, however, that one claiming private rights under the Public Land Act, as amended, must prove by clear and convincing evidence that *all the substantive requisites for acquisition of public lands (along with the procedural) had been complied with.*

As pointed out by petitioner, private respondent failed to adduce clear and convincing evidence that by August 14, 1970, she had already acquired ownership over the property by herself or through her predecessors-in-interest through open, continuous, exclusive and notorious possession and occupation of the property since 1945 or earlier.

Indeed, the law speaks of "*possession and occupation.*" Possession is broader than occupation because it includes constructive possession. Unless, therefore, the law adds the word "occupation," it seeks to delimit the all-encompassing effect of constructive possession. Taken together with the words "continuous," "exclusive" and "notorious," the word "occupation" seems to highlight the facts that for an applicant to qualify, her possession of the property must not be a mere fiction.

Actual possession of a land consists in the manifestation of acts of dominion of such a nature as a party would naturally exercise over her own property.[28] A mere casual cultivation of portions of land by the claimant does not constitute sufficient basis for a claim of ownership. Such possession is not exclusive and notorious as it gives rise to a presumptive grant from the State.[29] The applicant is burdened to offer proof of specific acts of ownership to substantiate the claim over the land.[30] The good faith of the person consists in the reasonable belief

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[28] *Republic v. Alconaba, supra* note 21.

[29] *Del Rosario v. Republic*, 432 Phil. 824, 838 (2002).

[30] *Republic v. Alcanaba, supra* note 21.

Supreme Court E-Library

that the person from whom she received the property was the owner thereof and could transfer ownership.[31]

While tax receipts and tax payment receipts themselves do not convincingly prove title to the land,[32] these are good indicia of possession in the concept of an owner, for no one in his right mind would pay taxes for a property that is not in his actual or, at least, constructive possession.[33] They constitute, at the least, proof that the holder has a claim of title over the property, particularly when accompanied by proof of actual possession.[34] The voluntary declaration of a piece of property for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the State and all other interested parties with an intention to contribute needed revenues to the government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.[35]

In this case, however, private respondent failed to offer in evidence the deed of sale purportedly executed by Sotero Bondal in favor of Macario Monjardin as vendee. On cross-examination, she admitted that the only deed of sale she had was the deed of absolute sale Macario Monjardin executed in favor of her parents, the spouses Igmedio Patricio. The documentary evidence adduced by private respondent even belies her claim that Sotero Bondal sold the property to her uncle. She even failed to identify "B.C. Monjardin," much less explain whether such person was really her uncle.[36] She even failed to adduce in evidence any tax declaration over the property under his name and that he paid the realty taxes for the property from 1930 to 1946.

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[31] *Raz v. Court of Appeals*, 372 Phil. 710 (1999).

[32] *Diaz-Enriquez v. Republic*, *supra* note 22, at 324.

[33] *Republic v. Kalaw*, G.R. No. 155138, June 8, 2004, 431 SCRA 401, 413.

[34] *Republic v. Court of Appeals*, 216 Phil. 500, 508-509 (1984).

[35] *Republic v. Alconaba*, *supra* note 21, at 620.

[36] Exhibit "I", records p. 116.

Supreme Court E-Library

Of great significance is private respondent's "promise" to submit proof based on the records in the Register of Deeds and other government agencies showing that Sotero Bondal sold the property to Macario Monjardin; and that if such records had been destroyed during the Second World War, she would submit proof of said destruction:

Q Who is this Sotero Bondal?
A The original owner of the lot from whom my uncle bought the property.

Q Do you have any document that your uncle Macario Monjardin acquired this property from Sotero Bondal?
A None. That was the only document executed both by my parents and my uncle.

Q So, there is a gap now to prove that your uncle, Macario Monjardin was able to acquire this from Sotero because it appears from the survey that the owner is still Sotero Bondal.
A Yes, sir.

Q So, as of now you do not have any document?
A You know during the war years everything was disturbed. So that is the only document that I have found.

Q So, there is a need for you to submit that to the Court because official documents show that the property is still in the name of Sotero Bondal. Are you going to prove that before this Court?
A I have to get from the cadastral office?

PROS. BOCALBOS:

It is up to your counsel to secure that. Just to show continuity of ownership of the land from the original owner, Sotero Bondal. As far as this witness is concerned, Your Honor, no more cross-examination except to submit the document which we require to show contin[u]ous possession and ownership of the land.

ATTY. RAÑESES:

Your Honor please, we want to manifest before this Court that as far as that sale is concerned we cannot assure the

Supreme Court E-Library

Court that we can produce that document. So I'm already manifesting this so that the distinguished Prosecutor, Your Honor, will not oblige us to produce that. If we cannot produce that we will leave our evidence to the Honorable Court.

COURT:

It is the observation that most of the records especially those that have been archived were lost during the war.

PROS. OCALBOS:

Yes, Your Honor. But it is a suggestion that in cases like this, you have to secure a certification from different agencies that all the records were already destroyed because of the war or whatever. So, they are going to execute again an affidavit of ownership of the property tracing all the dates from the predecessor, how this property was acquired by Macario Monjardin. That is an affirmation of the ownership of the land. As of this date there are still documents showing that the property is owned by Sotero Bondal otherwise from the date of sale, January 31, 1946 from Macario Monjardin to the petitioner's parents only shows that he was the owner of the property but without proving how he was able to secure this from Sotero Bondal.

ATTY. RAÑESES:

Your Honor please, we agree with counsel. If I can only have a copy of that it will be the best evidence to prove possession. But I must be frank, because of the years that have passed and because of the Pacific War that occurred in the Philippines. The floods and the natural calamities and time, Your Honor, I cannot guarantee. But at any rate I filed this original land registration case in accordance with P.D. 1529 that since this is still a public land, all I have to prove here is the continuous possession at least for 30 years from 1936 continuously up to the present.

PROS. BOCALBOS:

There is even a gap from that statement, "from 1936", wherein the property was sold in 1946.

Supreme Court E-Library

COURT:

That was sold to the uncle.

PROS. BOCALBOS:

But prior to that date there was no mention of Macario Monjardin how he was able to acquire this property. So, he could have executed some document that he was the owner at that time when he sold the property. So, there is a gap from the possession and ownership of the property from Sotero Bondal to Macario Monjardin.

ATTY. RAÑESES:

The requirement in the application is to show that there is a continuous, exclusive possession of the land.

PROS. BOCALBOS:

We are tracing this, Your Honor, to protect the interest of the previous owner, not only the government. That is only a suggestion. If they could secure from the Bureau of Lands or from any other agency that the records were already lost from the time Sotero Bondal owned the property so that they can execute another document an affidavit of ownership tracing the date and how Sotero Bondal acquired the property.[37]

However, private respondent failed to comply with her undertaking and rested her case without presenting said evidence.

Significantly, the spouses Igmedio Patricio applied for a free patent over the property after the Second World War, which, according to private respondent, was rejected by the Bureau of Lands.[38] Private respondent's testimony is further belied by the request to withdraw her application for a free patent over Lot No. 4094 which she made on October 27, 1994.[39] The records also show that the property is the subject of Cadastral Case No. 42, G.L.R.O. No. 1324 and there is no evidence on record

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[37] TSN, March 2, 1995, pp. 22-26.

[38] TSN, March 2, 1995, p. 29.

[39] Exhibit "R".

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that this case has been terminated. There are thus two applications for registration of the same lot: (1) the application of private respondent in the court below; and (2) Cadastral Case No. 42.

Furthermore, the fact that the blue print copy of the tracing cloth plan covering the subject lot as of 1991 was still in the name of Sotero Bondal is proof that not all the records of the Land Management Authority relative to the property had been lost. Unless and until respondent offered credible evidence that Monjardin had purchased the property from Bondal, it cannot be said that the spouses Igmedio Patricio acquired the rights and interests of Bondal over the property through Monjardin; private respondent cannot even tack her own possession of the property to that of her parents. In fact, she failed to adduce evidence that her uncle had been in open, continuous and adverse possession of the property. While she claimed that her mother was designated as *encargado*, private respondent failed to even mention the portion of the property that was cultivated, or at least where and who planted the *palay*. Such declaration (that Macario designated her mother as *encargado*) without more does not constitute preponderant evidence to prove adverse, continuous, open, public, and peaceful possession in the concept of owner. Private respondent's testimony that after her parents purchased the lot, they began receiving the share of the produce of the property does not in itself constitute proof of such adverse possession.

There is thus no evidence that the parents of private respondent ever had open, continuous, adverse and actual possession of Lot No. 4094.

IN LIGHT OF ALL THE FOREGOING, the petition is *GRANTED*. The appealed decision of the Court of Appeals in CA-G.R. CV No. 53606 is *SET ASIDE*. The Regional Trial Court is ordered to *DISMISS* private respondent's application for confirmation of title over Lot No. 4094.

SO ORDERED.

Panganiban, C.J. (Chairperson), Ynares-Santiago, Austria-Martinez, and *Chico-Nazario, JJ.*, concur.