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SECOND DIVISION

[G.R. No. 180453. September 25, 2009]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **DANTE C. ABRIL, represented by his Attorney-in-Fact, MANUEL C. BLANCO, JR.,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND TITLES AND DEEDS; PRESIDENTIAL DECREE NO. 1529 (THE PROPERTY REGISTRATION DECREE); REGISTRATION OF TITLE; REQUISITES. — The pertinent provision of Section 14 of the *Property Registration Decree* sets forth the requirements for registration of title, *viz*: "SECTION 14. Who may apply. — The following persons may file in the proper Court of First Instance 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.** x x x" Under said provision of law, three requisites must thus be satisfied: (1) open, exclusive, and notorious possession and occupation of the land since June 12, 1945 or earlier; (2) alienable and disposable character of the land of the public domain, and (3) a *bona fide* claim of ownership.

2. ID.; ID.; ID.; ID.; ID.; TAX CLEARANCES AND TAX RECEIPTS; NOT INCONTROVERTIBLE EVIDENCE OF OWNERSHIP; CASE AT BAR. — The documentary evidence of respondent consists, in the main, of a 1999 Tax Clearance effective 1999 and Tax Receipt dated 1999. Not only do these documents refer to the year 1999, they are not incontrovertible evidence of ownership.

3. ID.; ID.; ID.; ID.; ID.; THE REQUISITE OF "OPEN, EXCLUSIVE AND NOTORIOUS POSSESSION AND OCCUPATION OF THE LAND SINCE JUNE 12, 1945 OR EARLIER," NOT SATISFIED IN CASE AT BAR. — Respondent's attorney-in-fact Blanco identified the Deed of Sale in support of his claim

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that respondent purchased the lot from the heirs of Manlabao. But Blanco was not even a witness to the forging, as in fact he did not so state, of the Deed of Sale. Amalia Tapleras claimed that she was seven when she became aware that her father Manlabao was in possession of the lot. How Manlabao came into possession of the lot and what was the nature of his possession, Amalia was silent. The 62 year old (in 2000 when she testified) Samarita Francisco claimed to be an adjacent lot owner of the subject lot. She is not, however, among those listed by respondent in his Application as adjacent owner, which was earlier quoted. And as petitioner observes, her testimony that Manlabao had possessed the lot since she was five years old cannot be relied upon, given its vagueness and lack of details determinative of the nature of Manlabao's possession. Even by respondent's testimonial evidence which petitioner finds, to reflect mere conclusions of law and to which this Court agrees, respondent failed to prove that he and his predecessors-in-interest had been "in open, continuous, exclusive and notorious possession" of the lot under a *bona fide* claim of ownership since June 12, 1945 or earlier. In fine, as in his previous try to register the same subject lot, respondent failed to meet the first requisite for the purpose – open, exclusive and notorious possession of the land since June 12, 1945 or earlier.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Selwyn C. Ibarreta for respondent.

D E C I S I O N

CARPIO MORALES,[*] *J.*:

Dante C. Abril, (respondent) represented by his attorney-in-fact, Manuel C. Blanco, Jr. (Blanco), filed on December 16, 1997 before the Municipal Circuit Trial Court (MCTC) of Ibajay-Nabas, Aklan an Application dated November 18, 1997 for registration of title over a 25,969 square meter parcel of land

[*] Per Special Order No. 690 in lieu of the sabbatical leave of Senior Associate Justice Leonardo A. Quisumbing.

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situated in Barangay Rizal, Nabas, Aklan, identified as Lot No. 9310, Cad. 578-D, Nabas Cadastre (the lot), which he claimed to have acquired by Deed of Sale from the "anterior owners" and which lot he claimed to be "presently in [his] possession . . . through his adjoining owners] whom he named as

N.: Lot 9316 – Esperanza Manlabao ------ Rizal, Nabas, Aklan
Lot 9317 – Jovita Colindon ---------- Rizal, Nabas, Aklan
Molada River

E.: Lot 9308 – Ursula Janoya ---------- Rizal, Nabas, Aklan
Lot 9309 – Gaudioso Baliguat --------- Rizal, Nabas, Aklan

S.: ---------- Molada River

W.: Lot 9315 – Rosario Manlabao --------- Rizal, Nabas, Aklan.[1]

The Application was docketed as LRC Case No. 053 (LRA Record No. 69113).

To the Application respondent attached as Annex "A" the Special Power of Attorney he executed in favor of his attorney-in-fact Blanco, notarized on March 27, 1995.

In support of his Application, respondent presented through his attorney-in-fact Blanco, among other documents, a carbon copy of a mimeographed form of a Deed of Sale[2] dated September 21, 1994, with typewritten entries thereon, bearing the signatures of the widow and children of Aurelio Manlabao (Manlabao), alleged possessor of the land; Declaration of Real Property (effective 1999) in petitioner's name;[3] Certified Machine Copy of Tax Receipt dated March 16, 1999 in petitioner's name;[4] and the technical description and survey plan of the lot.

Respondent also presented at the witness stand Blanco, Manlabao's daughter Amalia Tapleras, and Sanrita Francisco who claimed to be an adjacent lot owner.

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[1] Records, p. 2.

[2] Exhibit "R", *id.* at 108-110.

[3] Exhibit "S", *id.* at 111.

[4] Exhibit "Q", *id.* at 107.

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Blanco testified that petitioner is a resident of San Pedro, Laguna; and that respondent acquired the lot from Manlabao by Deed of Sale dated September 21, 1994 which deed he identified and was marked Exhibits "R" to "R-2" inclusive. He identified too some of the documents in support of petitioner's Application.

Amalia Tapleras, a mat weaver who was 40 years old at the time she took the witness stand on November 5, 1999, stated that she came to know of the lot when she was seven years old, when it was in the "possession" of her father Manlabao.

Sanrita Francisco, a housekeeper, said to be 62 years old at the time she took the witness stand on February 18, 2000, claimed to be the owner of an adjacent lot ("beneath" respondent's lot), declared that she was five years old when Manlabao began to possess the lot "before 1945" or during World War II; and that when Manlabao died (she could not remember when), his wife continued the possession of the lot.

The Republic of the Philippines (petitioner), represented by the Office of the Solicitor General, opposed the Application, claiming that the requirements of Section 14 (1) of Presidential Decree No. 1529 or the *Property Registration Decree* were not complied with.

By Order of May 31, 2000, the MCTC granted respondent's Application in light of its finding that the requirements of Section 14 of P.D. No. 1529, specifically paragraphs 1, 2 and 4 which read:

Section 14. Who may apply. The following persons may file in the proper Court of First Instance 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.

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(2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.

x x x x x x x x x

(4) Those who have acquired ownership of land in any other manner provided for by law.

x x x x x x x x x

have been satisfactorily met.

Thus the trial court disposed:

WHEREFORE, premises considered, judgment is hereby rendered GRANTING the application for registration of the parcel land designated in the approved Survey Plan (Exhibit "C") known as Lot No. 9310, Cad. 758-D, Nabas Cadastre and described in the Technical Description (Exhibit "D") with an area of TWENTY FIVE THOUSAND NINE HUNDRED SIXTY NINE (25,969) SQUARE METERS, more or less, situated at Barangay Rizal, Municipality of Nabas, Province of Aklan, Island of Panay, Philippines, under the Property Registration Decree (PD 1529), and title thereto registered and confirmed in the name of DANTE ABRIL, Filipino citizen, married to Helen Castillo, with postal address at 133 Magsaysay Cataquez Village, Landayan, San Pedro, Laguna, Philippines.

After this decision shall have become final and executory, an order for the issuance of the Decree of Registration of Title shall issue in favor of the applicant.

SO ORDERED.[5]

Petitioner appealed to the Court of Appeals, faulting the MCTC for granting respondent's Application despite his failure

I

. . . to submit the original tracing cloth plan.

II

. . . to prove that the land is alienable and disposable land of the public domain.

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[5] *Id.* at 124-125.

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III

. . . to prove that he and his predecessors-in-interest had been in open, continuous and adverse possession of the land in the concept of owners for more than thirty (30) years in accordance with Section 44, Commonwealth Act No. 141 as amended.[6] (Underscoring supplied)

Brushing aside the first assigned error, the appellate court, held:

As long as the identity of the location of the lot can be established by other competent evidence like a duly approved blueprint copy of the plan of Lot 9310, Cad – 758-D, Nabas Cadastre and technical description of the said lot, containing and identifying the boundaries, actual area and location of the lot, the presentation of the original tracing cloth plan may be excused. In the case at bench, these competent evidence are obtaining.[7] (Underscoring supplied)

Respecting petitioner's second and third assigned errors, the appellate court brushed them aside too, holding that respondent was able to prove by preponderant evidence the alienable character of the lot and his entitlement to and ownership thereof. It quoted with approval the following portions of the MCTC decision crediting respondent's documentary and testimonial evidence:

Applicant Dante Abril has the property subject of this application declared in his name for taxation purposes, Exhibit "S", and paid taxes thereof from September 21, 1994 up to the present, it has never been disturbed of its possession at anytime by anybody, (tsn. p. 7, 6/18/99, Manuel C. Blanco, Jr.). That the property is planted to coconuts and mango trees which are "from 50 to 60 years old," (tsn. p. 7, 6/18/99, Manuel C. Blanco, Jr.). That it "was verified by this office to be within Project No. 12, alienable and disposable per LC Map No. 2922 certified as such on October 15, 1980.

While it is true that by themselves tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership they become strong evidence of ownership acquired by prescription by proof of actual possession of the property (*Republic*

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[6] CA *Rollo*, pp. 35-36

[7] *Id.* at 73-74.

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vs. Court of Appeals, 131 SCRA 532)." Nobody ever disturbed the application in its possession up to the present. The land was never mortgaged nor encumbered. That the land subject of this application is "not needed by the government," Exhibit "T".

Having been in open, exclusive and undisputed possession for more than 30 years of alienable and disposable public land, applicant's possession has attained the character and duration equivalent to an express grant from the government. They shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title (*Republic vs. De Porkan*, 151 SCRA 88). Alienable public land held by a possessor personally or thru his predecessor-in-interest, openly, continuously, for 30 years as prescribed by law, becomes private property (*Director of Lands vs. Bengson*, 151 SCRA 369). Moreover, where a parcel of land, registration to which is applied for has been possessed and cultivated by an applicant and his predecessors-in-interest for a considerable number of years without the government taking any action to dislodge the occupants from their holdings and where the lands has passed from one hand to another by inheritance or by purchase, the burden is upon the government to prove that land is a public domain (*Raymundo vs. Diaz, et al.*, 28 O.G. 37, September 10, 1962).[8] (Citation omitted)

The Court of Appeals thus affirmed the MCTC decision by Decision of October 8, 2007.[9]

Hence, the present petition for review on *certiorari* which echoes the second and third errors petitioner attributed to the MCTC before the appellate court.

The pertinent provision of Section 14 of the *Property Registration Decree* sets forth the requirements for registration of title, *viz*:

SECTION 14. Who may apply. — The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

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[8] *Id.* at 85-86.

[9] Penned by Associate Justice Isaias P. Dicdican, with the concurrence of Associate Justices Francisco P. Acosta and Stephen C. Cruz.

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(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**.

x x x (Emphasis and underscoring supplied)

Under said provision of law, three requisites must thus be satisfied: (1) open, exclusive, and notorious possession and occupation of the land since June 12, 1945 or earlier; (2) alienable and disposable character of the land of the public domain, and (3) a *bona fide* claim of ownership.

The record shows that respondent had earlier sought the registration of the same lot. The October 19, 1999 Report of the Land Registration Authority (LRA) submitted to the MCTC reflects so:

x x x x x x x x x

2. LRA Records show that **the same subject lot was previously the subject of registration of title** in Land Reg. Case No. 430, LRA Record No. N-65380 by the **same applicant**, however, said application was **denied** for the following reasons as quoted from the decision dated 2 October 1996, to wit:

> 2. **The applicant has not shown that he and his predecessors-in-interest have been in continuous, exclusive and notorious possession of the subject property.** The petition did not state in what manner the applicant or his predecessors-in-interest came into possession of the property, either by possession as owner for more than thirty (30) years or possession since time immemorial. **The testimony of Emilia Baldevieso who is only 33 years old to the effect that her father, Aurelio Manlaban [*sic*], Sr., and before him, her grandfather, Martin Manlabao, were the prior owners of this property, are more conclusion of law which requires factual support and substantiation.** Of course, the Court noted that the applicant tried to cure this deficiency by presenting tax declarations **as early as 1953** in the name of Martin Manlabao

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> but tax declarations are not sufficient to prove ownership. x x x
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> 3. A letter of the Chief, Surveys Division, Lands Management Services, Region VI, Iloilo City dated August 13, 1999 was received by this Authority, with the information that lot **9310**, plan Ap-06-005304 is **not** a portion of previously approved isolated survey, and
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> 4. This Authority is not in a position to verify whether or not the parcel of land subject of registration is already covered by land patent.[10] (Emphasis and underscoring supplied)

In the same Report, the LRA recommended that should the application be given due course, the DENR, Lands Management Bureau and CENRO be ordered to submit a report on the status of Lot 9310 to determine whether it is already covered by a land patent. The recommendation was not acted upon by the MCTC, however.

In vigorously sustaining its opposition to respondent's Application, the Republic posits

> The testimonies of respondent's witnesses only delved on the transfer of the subject property from a certain Aurelio Manlabao [*sic*] sometime in 1994. The testimony of witnesses Amalia Tapleras only tends to show that the subject property previously belonged to her father, Aurelio Manlabao. There is nothing from her testimony that would show the period when Aurelio Manlabao or the latter's heirs had been in possession of said property. Neither is there any evidence of specific acts showing the same nature of possession of Aurelio Manlabao or the latter's successors in-interest over the property. Equally important, it was not even clearly shown how the property was transferred from Aurelio Manlabao to his heirs, the vendors of the property to respondent.
>
> The testimony of respondent's attorney-in-fact Manuel C. Blanco with respect to the alleged actual, peaceful and adverse possession of respondent is merely conclusion of law unsupported by any evidence. His testimony that the property has been declared for taxation purposes in the name of respondent and that respondent

[10] Records, pp. 85-86.

has never been disturbed of his possession over the property from the time the property was transferred to him in 1994 does not prove respondent's nature of possession over the property. His statement regarding the existence of coconut trees which are about 50 to 60 years old is also unsupported by any independent and competent evidence. Even assuming it is true, its only supports the character of the property as timberland the possession thereof cannot ripen into ownership. It also bears pointing out that Manuel C. Blanco did not even try to point any cultivation or improvement done by respondent on the property.

The testimony of sixty-two year old witness Sanrita Francisco does not suffice to establish that Aurelio Manlabao had adverse possession of the property before 1945 as claimed by respondent. Although she claims that at the age of five, she remembered Aurelio Manlabao in possession of the land, her statement remained vague considering her claim that Aurelio Manlabao held the land "for a long time because it was their land." The same witness could not even remember her age during the second World War which was the time Aurelio Manlabao allegedly started possession of the property. She did not even specify the manner and the nature of the improvements introduced in the land. Given her failing recollection, her testimony does not deserve credence.

Clearly, the evidence adduced by respondent failed to establish the nature of possession by him and his predecessors-in-interest.

There was even no documentary proof on any payment made by the predecessors-in-interest of the real estate tax on the subject property. This failure to pay taxes belies respondent's allegation that his predecessors-in-interest had asserted claim or interest over the subject lot.

Equally important, there was no proof that Aurelio Manlabao or his heirs had introduced improvements on the property or cultivated the same during the alleged period that they were in possession of the property. x x x[11]

The Court finds for the Republic.

The documentary evidence of respondent consists, in the main, of a 1999 Tax Clearance effective 1999 and Tax Receipt

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[11] *Rollo*, pp. 31-33.

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dated 1999. Not only do these documents refer to the year 1999, they are not incontrovertible evidence of ownership.

As for respondent's testimonial evidence, the same does not impress.

Respondent's attorney-in-fact Blanco identified the Deed of Sale in support of his claim that respondent purchased the lot from the heirs of Manlabao. But Blanco was not even a witness to the forging, as in fact he did not so state, of the Deed of Sale.

Amalia Tapleras claimed that she was seven when she became aware that her father Manlabao was in possession of the lot. How Manlabao came into possession of the lot and what was the nature of his possession, Amalia was silent.

The 62 year old (in 2000 when she testified) Samarita Francisco claimed to be an adjacent lot owner of the subject lot. She is not, however, among those listed by respondent in his Application as adjacent owner, which was earlier quoted. And as petitioner observes, her testimony that Manlabao had possessed the lot since she was five years old cannot be relied upon, given its vagueness and lack of details determinative of the nature of Manlabao's possession.

Even by respondent's testimonial evidence which petitioner finds, to reflect mere conclusions of law and to which this Court agrees, respondent failed to prove that he and his predecessors-in-interest had been "in open, continuous, exclusive and notorious possession" of the lot under a *bona fide* claim of ownership since June 12, 1945 or earlier.

In fine, as in his previous try to register the same subject lot, respondent failed to meet the first requisite for the purpose – open, exclusive and notorious possession of the land since June 12, 1945 or earlier.

This leaves it unnecessary to still dwell on the other requisites for a grant of respondent's Application.

WHEREFORE, the Court *SETS ASIDE* the assailed issuances of the Court of Appeals. LRC Case No. 053 (LRA

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Record No. 69113), the Application for registration of respondent, Dante C. Abril over Lot No. 9310, Cad. 578-D, Nabas Cadastre, filed before the Municipal Circuit Trial Court of Ibajay-Nabas, Aklan, is *DISMISSED*.

SO ORDERED.

Ynares-Santiago,[*] *Brion, del Castillo,* and *Abad, JJ.,* concur.

THIRD DIVISION

[G.R. Nos. 180880-81. September 25, 2009]

KEPPEL CEBU SHIPYARD, INC., *petitioner, vs.* **PIONEER INSURANCE AND SURETY CORPORATION,** *respondent.*

[G.R. Nos. 180896-97. September 25, 2009]

PIONEER INSURANCE AND SURETY CORPORATION, *petitioner, vs.* **KEPPEL CEBU SHIPYARD, INC.,** *respondent.*

SYLLABUS

1. CIVIL LAW; OBLIGATIONS AND CONTRACTS; EXTRA-CONTRACTUAL OBLIGATIONS; QUASI-DELICTS; NEGLIGENCE; ELUCIDATED. — There is negligence when an act is done without exercising the competence that a reasonable person in the position of the actor would recognize as necessary to prevent an unreasonable risk of harm to another. Those who undertake any work calling for special skills are required to exercise reasonable care in what they do. Verily, there is an

[*] Per Special Order No. 706 and additional member per Special Order No. 691.