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FIRST DIVISION

[G.R. No. 168464. January 23, 2006]

ZENAIDA RAMOS-BALALIO, *petitioner, vs.* **ROLANDO RAMOS, EUSEBIO I. RAMOS and EVANGELISTO GARCIA,** *respondents.*

SYLLABUS

1. CIVIL LAW; PUBLIC LAND ACT; MODES OF ACQUIRING ALIENABLE LANDS; HOMESTEAD PATENT; LEGAL REQUIREMENTS FOR PERFECTION OF TITLE OVER THE LAND APPLIED FOR.— Under the Regalian doctrine, all lands of the public domain belong to the State and those lands not appearing to be clearly within private ownership are presumed to belong to the State. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Alienable lands of the public domain shall be limited to agricultural lands. Commonwealth Act No. 141 (1936), or the Public Land Act, as amended by Presidential Decree No. 1073 (1977), remains to be the general law governing the classification and disposition of alienable lands of the public domain. It enumerates the different modes of acquisition of these lands and prescribes the terms and conditions to enable private persons to perfect their title to them. It is, therefore, the applicable law to the case before us. A homestead patent, such as the subject of the instant case, is one of the modes to acquire title to public lands suitable for agricultural purposes. Under the Public Land Act, a homestead patent is one issued to any citizen of this country, over the age of 18 years or the head of a family, and who is not the owner of more than 24 hectares of land in the country. To be qualified, the applicant must show that he has resided continuously for at least one year in the municipality where the land is situated and must have cultivated at least one-fifth of the land applied for.

2. ID.; ID.; ID.; ID.; ID.; PETITIONER HAS NOT SATISFACTORILY ESTABLISHED THAT A VALID APPLICATION FOR HOMESTEAD PATENT WAS FILED BY HER PARENTS; PURPORTED SALE BETWEEN PETITIONER AND HER MOTHER CANNOT BE GIVEN EFFECT, NOR CAN IT BE THE

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SOURCE OF PETITIONER'S RIGHT BECAUSE HER MOTHER DID NOT HAVE THE AUTHORITY TO SELL WHAT DID NOT BELONG TO HER.— In the case at bar, petitioner Zenaida asserts her right to a parcel of agricultural land that her parents Susana and Abundio had possessed since 1938. She claims that, for some time, the cultivation of this land was left to her and her grandfather and that, following the death of her father Abundio, the land was allegedly sold to her by her mother Susana. Zenaida's argument is flawed because it assumes that her parents had perfected their title over the land and that they could validly convey the same to third persons, whether by sale or by inheritance. However, a careful examination of the records shows that petitioner has not satisfactorily established that a valid application for homestead patent was filed by her parents. The decision of the Bureau of Lands in 1958 only addressed Zenaida's family's right of preference over the land, in view of their possession and cultivation of the land. Nonetheless, the Bureau of Lands ordered the filing of an *appropriate application* for its registration which indicates that as of that time, there was as yet no valid application filed. The purported sale, therefore, between petitioner and her mother cannot be given effect, nor can it be a source of right for Zenaida, because Susana did not have the authority to sell what did not belong to her. The invalidation of the sale consequently nullifies the partition of the property among Zenaida, Alexander, and Rolando and his siblings because Zenaida could not have disposed of the land which she did not own.

3. **ID.; ID.; ID.; ID.; SUBJECT LAND REMAINS PART OF THE PUBLIC DOMAIN.**— For the same reason, neither Eusebio nor Rolando can claim any right whatsoever as heirs of Susana. Their claim evidently relies on the provision of the Public Land Act which states: Section 105. If at any time the applicant or grantee shall die before the issuance of the patent or the final grant of the land, or during the life of the lease, or while the applicant or grantee still has obligations pending towards the Government, in accordance with this Act, *he shall be succeeded in his rights and obligations with respect to the land applied for* or granted or leased under this Act by his heirs in law, who shall be entitled to have issued to them the patent or final concession *if they show that they have complied with the requirements therefor, and who shall be subrogated in all his rights and obligations for the purposes of this Act.* The reliance is misplaced because the cited provision

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speaks of an *applicant*, *grantee*, or *lessee*. Susana was not one of these. In her lifetime, despite her possession and cultivation of the land, she failed to apply for a homestead patent and to acquire any vested right that Eusebio or Rolando can inherit. As such, the land remains part of the public domain. Furthermore, Eusebio and Rolando cannot invoke their prior possession and occupation of the land because the same cannot be considered as adverse, open, public, peaceful and to the exclusion of all. Hence, the subject land remains to be part of the public domain and rightfully belongs to the State. As held by the Court of Appeals, none of the parties obtained a defensible title to the property which can be upheld by the Court. Nonetheless, the *possession* of the land is different from the issue of its *ownership*. Petitioner argues that her petition may be treated as an *accion publiciana* and not merely an action for recovery of inheritance.

4. ID.; PROPERTY; POSSESSION; PETITIONER'S UNCONTESTED AND VERIFIED APPLICATION FOR A HOMESTEAD PATENT COUPLED WITH HER OPEN AND NOTORIOUS OCCUPATION OF THE LAND SUFFICIENTLY PROVES HER PREFERENTIAL RIGHT TO POSSESS THE LAND CLAIMED, WHICH ENTITLES HER TO BE PROTECTED BY LAW IN SUCH POSSESSION.— An *accion publiciana* is an action for the recovery of the right to possess and is a plenary action in an ordinary civil proceeding to determine the better right of possession of realty independently of title. In this case, the issue is whether Zenaida, as an applicant for public land, may be considered as having any right to the land occupied, which may entitle her to sue in courts for the return of the possession thereof. We find that Zenaida has proven prior possession of the portion of land she claims as her share, which possession antedates the filing of the homestead application. She produced evidence showing that she has filed a verified application for the registration of the land with the Bureau of Lands on August 10, 1971, which is still pending. The documents remain uncontested and the application has not been assailed by any of the parties to the case. She alleged that during the lifetime of her mother, she and her maternal grandfather cultivated and occupied the land. Moreover, Zenaida presented tax declarations both in her name and that of her predecessor-in-interest (mother Susana Bueno) covering the property. Time and again, we have

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held that although tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good *indicia* of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. All told, petitioner Zenaida's uncontested and verified application for a homestead patent coupled with her open and notorious occupation of the land convinces us of her preferential right to possess the land claimed, which entitles her to be protected by the law in such possession.

APPEARANCES OF COUNSEL

D.L. Wagas Law Office for petitioner.
Julian B. Dela Rosa for respondents.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

This petition assails the Decision[1] of the Court of Appeals dated February 16, 2005 in CA-G.R. CV No. 58644 reversing the Decision[2] of the Regional Trial Court (RTC) of Roxas, Isabela, Branch 23, dated July 17, 1996, in Civil Case No. Br. 23-357 which ruled that herein petitioner Zenaida Ramos-Balalio had a superior right to possess Lot No. 204, Pls-15, situated at Muñoz, Roxas, Isabela, as well as its Resolution[3] dated June 14, 2005 denying the motion for reconsideration.

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[1] *Rollo*, pp. 29-40. Penned by Associate Justice Jose C. Reyes, Jr., as concurred in by Associate Justices Delilah Vidallon-Magtolis and Perlita J. Tria Tirona.

[2] *Id.* at 44-53. Penned by Judge Wilfredo Tumaliuan.

[3] *Id.* at 42.

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As culled from the records, petitioner Zenaida and her brother Alexander (now deceased) are the children of spouses Susana Bueno and Abundio Ramos. The spouses started occupying Lot No. 204 in 1938. Abundio died in 1944. Susana met her second husband, respondent Eusebio Ramos in 1946, with whom she had five children, one of whom is respondent Rolando.

In the interim, prior to 1958, Susana discovered that Felimon Domingo applied for a sales patent over the subject parcel of land which she opposed. The Bureau of Lands resolved the dispute, thus:

> In the light of the foregoing facts, it is clear that Felimon B. Domingo has not entered, possessed or cultivated the land in question and therefore he has not acquired any preference right thereto. Upon the other hand contestant Susana Bueno *Vda. de Ramos* and her children have sufficiently established their right of preference over the land except the one hectare Cemetery site, on the basis of their continuous occupation and cultivation and their valuable improvements introduced thereon.
>
> Wherefore, it is ordered that the Sales Application No. 21992 of Felimon B. Domingo be as hereby it is rejected, forfeiting in favor of the Government whatever amount have been paid on account thereof. The land in question shall be subdivided so as to exclude therefrom the one hectare portion in the northwestern part of the land, which shall be reserved as barrio cemetery site, while the remaining area is hereby allocated to *SUSANA BUENO VDA. DE RAMOS* who shall file an appropriate application therefore within sixty (60) days after the survey thereof at her own expense, it not appearing that this Office has received the homestead (new) application allegedly filed by her for the same land.
>
> SO ORDERED.[4]

It was alleged that as Susana accompanied her husband Eusebio, a soldier, wherever he was assigned, Susana's father, George Bueno, and daughter, petitioner Zenaida continued the cultivation and possession of the subject land. Sometime later, Susana sold the land to petitioner who, in turn, partitioned it among

[4] RTC records, pp. 252-253.

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herself, her brother, Alexander, and respondent Rolando and his siblings. The partition was not registered but Deeds of Sale were executed in favor of Rolando and Alexander.

Petitioner thereafter mortgaged her share; however, it came to her knowledge that respondents Rolando and Eusebio had usurped her share and deprived the mortgagees of possession over the land. After settling the mortgage, petitioner filed a case for recovery of inheritance, possession and damages with a petition for preliminary mandatory injunction.

The trial court had the land surveyed. Subdividing the land into Lots 204-A to 204-H[5] based on the actual possessor or occupant, the survey plan revealed the following:

1. Plaintiff Zenaida Ramos Balalio has no possession, occupation, and cultivation whatsoever of lot 204, Pls-15;
2. Rolando Ramos is in possession and cultivation of lot 204-F, lot 204-G and lot 204-C, with a total area of 43,957 sq. m., more or less;
3. Eusebio Ramos is occupying and cultivating lot 204-A with an area of 4,994 sq. m., more or less;
4. Lot 204-B consisting of 17,685 sq. m., more or less, is possessed and cultivated by Evangelisto Garcia, another intervenor. His occupation is very much less than the two (2) hectares sold to him by Alexander Ramos. It is short by 2,311 sq. m., more or less;
5. The total area of the land in question, after deducting one (1) hectare occupied by the cemetery is 73,150 sq. m., more or less.[6]

On July 17, 1996, the trial court rendered its decision holding that petitioner was deprived of her right to cultivation and possession of her share of Lot No. 204 and thus ruled:

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[5] No mention is made however in the trial court's decision regarding Lots 204-C and 204-D.

[6] *Rollo*, pp. 48-49.

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AS A CONSEQUENCE OF ALL THE FOREGOING, judgment is hereby rendered in favor of plaintiff, Zenaida Ramos and against Rolando Ramos, defendant, and Eusebio Ramos, intervenor.

1. Ordering Eusebio Ramos to vacate lot 204-A and surrender it to Evangelisto Garcia because he is not entitled to any portion of the lot in question, it being the conjugal property of the first marriage of Susana Bueno to Abundio Ramos;

2. Evangelisto Garcia is adjudicated the first two (2) hectares from the North and East of the cemetery, as he validly bought the area from Alexander Ramos. He is presently occupying only 17,689 sq. m., more or less. His possession now is increased to two (2) hectares which includes the area being possessed by Eusebio Ramos;

3. The remaining portion of the share of Alexander Ramos is 4,410 sq. m., more or less. This is adjudicated in favor of his heirs. This portion now corresponds to the area immediately South of the area of Evangelisto Garcia, the partition being from East to West;

4. The middle portion consisting of 24,410 sq. m., more or less, and immediately South of the cemetery, and also South of the portion adjudicated to the heirs of Alexander is now given to Zenaida Ramos Balalio as her valid share of lot 204, the partition being also East to West;

5. South of the share of Zenaida consisting also of 24,410 sq. m., more or less, is the valid share of Rolando Ramos and his full blooded brother and sisters namely Robin, Corazon, Myrna and Mila, all surnamed Ramos;

6. Rolando Ramos and Eusebio Ramos are ordered jointly and severally to pay Zenaida Ramos:

a. Ten Thousand (₱10,000.00) Pesos as attorney's fees;

b. One thousand Five Hundred (₱1,500.00) Pesos as appearance fees of her lawyer;

c. Ten Thousand (₱10,000.00) Pesos as incidental expenses relative to the case;

d. One Hundred Thousand Eight Hundred (₱100,800.00) Pesos as the reasonable owner's share of the produce of the land of Zenaida Ramos from 1975 to the present, with an interest of 6% per annum until fully paid;

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7. The Clerk of Court and the Sheriff are ordered to repair to the land in question and partition said land in accordance with the tenor of this decision;

8. And to pay the cost.

SO ORDERED.[7]

On appeal, the Court of Appeals found that neither Zenaida nor Alexander complied with the homestead application requirements in order to acquire superior vested right. As a consequence, it reversed the decision of the trial court, to wit:

As a consequence of the foregoing, the Court rules in favor of appellants as to the fourth error and finds that the contract supposedly dividing that property among Zenaida, Rolando Ramos and Alexander Ramos cannot be enforced because neither of the parties therein can claim any vested right over the subject parcel land which is still part of the public domain.

Also, prescinding from the above ruling, the intervention of Eusebio Ramos and Evangelisto Garcia should likewise be dismissed. As to Eusebio, since Susana never filed an application for homestead, her right never ripened to ownership which she could have transmitted to her heirs. As to Evangelisto Garcia who supposedly purchased that share of Alexander (an heir of Susana), since the vendor never inherited anything from Susana there was nothing which he (Evangelisto) could have bought. In fine, neither of the intervenors could claim any right which they can enforce in court.

WHEREFORE, the Decision of the Regional Trial Court of Roxas, Isabela, Branch 23, in Civil Case No. Br. 23-357 is REVERSED and the "Complaint" filed by plaintiff-appellee as well as the respective "Answer in Intervention" of Eusebio Ramos and Evangelisto Garcia are all hereby ordered DISMISSED.

SO ORDERED.[8]

Hence, this petition on the following assigned errors:

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[7] *Id.* at 51-53.

[8] *Id.* at 39-40.

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7.1. THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN REVERSING THE TRIAL COURT'S DECISION AND DISMISSING THE PETITIONER'S COMPLAINT.

7.2. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT PETITIONER IS NOT IN PRIOR POSSESSION OF THE SAID LAND, AND DECLARING THAT SHE HAS NO RIGHT WHATSOEVER TO THE DISPUTED LAND.

7.3. THE HONORABLE COURT OF APPEALS ERRED IN IGNORING THE ISSUE OF ACCION PUBLICIANA IN THE CASE AT BAR AND CONFINED ITSELF TO THE CLAIM OF RECOVERY OF INHERITANCE.[9]

The petition is partly meritorious.

Under the Regalian doctrine, all lands of the public domain belong to the State and those lands not appearing to be clearly within private ownership are presumed to belong to the State.[10] Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Alienable lands of the public domain shall be limited to agricultural lands.[11]

Commonwealth Act No. 141 (1936), or the Public Land Act, as amended by Presidential Decree No. 1073 (1977), remains to be the general law governing the classification and disposition of alienable lands of the public domain. It enumerates the different modes of acquisition of these lands and prescribes the terms and conditions to enable private persons to perfect their title to them. It is, therefore, the applicable law to the case before us.

A homestead patent, such as the subject of the instant case, is one of the modes to acquire title to public lands suitable for agricultural purposes. Under the Public Land Act, a homestead patent is one issued to any citizen of this country, over the age

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[9] *Id.* at 17.

[10] *Seville v. National Development Company,* G.R. No. 129401, February 2, 2001, 351 SCRA 112, 120.

[11] CONSTITUTION, Art. XII, Sec. 3.

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of 18 years or the head of a family, and who is not the owner of more than 24[12] hectares of land in the country.[13] To be qualified, the applicant must show that he has resided continuously for at least one year in the municipality where the land is situated and must have cultivated at least one-fifth of the land applied for.[14]

In the case at bar, petitioner Zenaida asserts her right to a parcel of agricultural land that her parents Susana and Abundio had possessed since 1938. She claims that, for some time, the cultivation of this land was left to her and her grandfather and that, following the death of her father Abundio, the land was allegedly sold to her by her mother Susana.

Zenaida's argument is flawed because it assumes that her parents had perfected their title over the land and that they could validly convey the same to third persons, whether by sale or by inheritance. However, a careful examination of the records shows that petitioner has not satisfactorily established that a valid application for homestead patent was filed by her parents. The decision of the Bureau of Lands in 1958 only addressed Zenaida's family's right of preference over the land, in view of their possession and cultivation of the land. Nonetheless, the Bureau of Lands ordered the filing of an *appropriate application* for its registration which indicates that as of that time, there was as yet no valid application filed.[15]

The purported sale, therefore, between petitioner and her mother cannot be given effect, nor can it be a source of right for Zenaida, because Susana did not have the authority to sell what did not belong to her. The invalidation of the sale

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[12] In view of the constitutional limitation on the number of hectares to be granted, the 24 hectares stated in the law should be understood to refer only to 12 hectares. See *Republic v. Court of Appeals*, G.R. No. 112115, March 9, 2001, 354 SCRA 148, 153.

[13] Commonwealth Act No. 141 (1936), Section 12.

[14] Commonwealth Act No. 141 (1936), Section 14.

[15] RTC records, pp. 252-253.

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consequently nullifies the partition of the property among Zenaida, Alexander, and Rolando and his siblings because Zenaida could not have disposed of the land which she did not own.

For the same reason, neither Eusebio nor Rolando can claim any right whatsoever as heirs of Susana. Their claim evidently relies on the provision of the Public Land Act which states:

> Section 105. If at any time the applicant or grantee shall die before the issuance of the patent or the final grant of the land, or during the life of the lease, or while the applicant or grantee still has obligations pending towards the Government, in accordance with this Act, *he shall be succeeded in his rights and obligations with respect to the land applied for* or granted or leased under this Act by his heirs in law, who shall be entitled to have issued to them the patent or final concession *if they show that they have complied with the requirements therefor, and who shall be subrogated in all his rights and obligations for the purposes of this Act.* (Italics added)

The reliance is misplaced because the cited provision speaks of an *applicant, grantee, or lessee*. Susana was not one of these. In her lifetime, despite her possession and cultivation of the land, she failed to apply for a homestead patent and to acquire any vested right that Eusebio or Rolando can inherit. As such, the land remains part of the public domain. Furthermore, Eusebio and Rolando cannot invoke their prior possession and occupation of the land because the same cannot be considered as adverse, open, public, peaceful and to the exclusion of all.

Hence, the subject land remains to be part of the public domain and rightfully belongs to the State. As held by the Court of Appeals, none of the parties obtained a defensible title to the property which can be upheld by the Court. Nonetheless, the *possession* of the land is different from the issue of its *ownership*. Petitioner argues that her petition may be treated as an *accion publiciana* and not merely an action for recovery of inheritance.

An *accion publiciana* is an action for the recovery of the right to possess and is a plenary action in an ordinary civil proceeding to determine the better right of possession of realty

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independently of title.[16] In this case, the issue is whether Zenaida, as an applicant for public land, may be considered as having any right to the land occupied, which may entitle her to sue in courts for the return of the possession thereof.

We find that Zenaida has proven prior possession of the portion of land she claims as her share, which possession antedates the filing of the homestead application. She produced evidence showing that she has filed a verified application for the registration of the land with the Bureau of Lands on August 10, 1971,[17] which is still pending. The documents remain uncontested and the application has not been assailed by any of the parties to the case. She alleged that during the lifetime of her mother, she and her maternal grandfather cultivated and occupied the land.

Moreover, Zenaida presented tax declarations both in her name and that of her predecessor-in-interest (mother Susana Bueno) covering the property. Time and again, we have held that although tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good *indicia* of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession.[18] They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government.[19]

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[16] *Lopez v. David, Jr.*, G.R. No. 152145, March 30, 2004, 426 SCRA 535, 543.

[17] CA *rollo*, pp. 321-325.

[18] *Calicdan v. Cendaña*, G.R. No. 155080, February 5, 2004, 422 SCRA 272, 280.

[19] *Heirs of Santiago v. Heirs of Santiago*, G.R. No. 151440, June 17, 2003, 404 SCRA 193, 199.

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All told, petitioner Zenaida's uncontested and verified application for a homestead patent coupled with her open and notorious occupation of the land convinces us of her preferential right to possess the land claimed, which entitles her to be protected by the law in such possession.

WHEREFORE, the petition is *PARTIALLY GRANTED*. The Decision of the Court of Appeals dated February 16, 2005 is *MODIFIED*, insofar as to grant petitioner Zenaida Ramos-Balalio preferential possession of the portion of Lot 204, Pls-15, situated in Muñoz, Roxas, Isabela, as delineated in the Decision of the Regional Trial Court of Roxas, Isabela, Branch 23, dated July 17, 1996.

SO ORDERED.

Panganiban, C.J., Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

EN BANC

[G.R. No. 168964. January 23, 2006]

BANGKO SENTRAL NG PILIPINAS, *petitioner, vs.* **COMMISSION ON AUDIT & RECARREDO S. VALENZUELA,** *respondents.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; RETIREMENT BENEFITS ACCRUING TO A PUBLIC OFFICER MAY NOT WITHOUT HIS CONSENT, BE WITHHELD AND APPLIED WITHOUT HIS CONSENT.— In *Cruz v. Tantuico*, it was held that retirement benefits accruing to a public officer may not, without his consent, be withheld and applied to his indebtedness to the government. In the said case, the National