



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

D.M. CONSUNJI, INC.,
Petitioner,

G.R. No. 233339

Present:

- versus -

CARPIO, J., *Chairperson*,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
HERNANDO,* *JJ.*

REPUBLIC OF THE PHILIPPINES
and THE HEIRS OF JULIAN CRUZ,
represented by **MACARIA CRUZ**
ESTACIO,

Promulgated:

Respondents.

13 FEB 2019

X-----X

RESOLUTION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated February 23, 2017 (Decision) of the Court of Appeals³ (CA) in CA-G.R. CV No. 99963, reversing and setting aside the Order⁴ dated September 7, 2012 rendered by the Metropolitan Trial Court⁵ of Taguig City, Branch 74 (MeTC) in LRC Case No. 37 that confirmed the title of petitioner D.M. Consunji, Inc. (DMCI) over Lot 5174-A with an area of 4,839 square meters situated at Barangay Bambang, Taguig City (Subject Land), and the

* Designated additional Member per Special Order No. 2630 dated December 18, 2018.

¹ *Rollo*, pp. 3-22, excluding Annexes.

² *Id.* at 23 to 34-A. Penned by Associate Justice Myra V. Garcia-Fernandez, with Associate Justices Rosmari D. Carandang (now a member of this Court) and Pedro B. Corales concurring.

³ Special Third Division.

⁴ *Rollo*, pp. 50-57. Penned by Acting Presiding Judge Donna B. Pascual.

⁵ Section 34 of Batas Pambansa Blg. 129, or the JUDICIARY REORGANIZATION ACT OF 1980, as amended by Republic Act No. 7691 (approved on March 25, 1994) grants Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts the delegated jurisdiction to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots where the value of which does not exceed P100,000.00, such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants if there are more than one, or from the corresponding tax declaration of the real property; and their decisions shall be appealable in the same manner as decisions of the Regional Trial Courts.

Resolution⁶ dated August 2, 2017 of the CA⁷ denying the motion for reconsideration filed by DMCI.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

x x x D.M. Consunji, Inc. [(DMCI)] filed an application for registration of title over a parcel of land with the MeTC[.] The subject lot is denominated as Lot No. 5174-A, with an area of 4,935 square meters, more or less, situated at Bambang, Taguig, Metro Manila, and covered by survey plan Swo-00-001460(5174, MCad-m-590-D). In its application, [(DMCI)] averred that it acquired the land from Filomena D. San Pedro [(San Pedro)] by virtue of a Deed of Absolute Sale dated November 28, 1995; that the land was not tenanted and there are no buildings or improvements thereon; that the land was last assessed at P59,220.00 and that there is no mortgage or encumbrance of any kind affecting the land; there are no other persons having any interest on or possession of the said land; and that [(DMCI)] and its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945, or earlier.

Julian Cruz [(Cruz)], represented by Macaria C. Estacio, filed an opposition to the application claiming that he is the owner of the subject parcel of land; that his predecessors-in-interest have occupied and claimed the subject land since the 1920s as follows: 1) Pablo Cruz as shown by Tax Declaration No. 4055, and 2) Abundia Cruz (daughter of Pablo Cruz), as shown by Tax Declaration No. 10845 dated October 26, 1941; and that the latest Tax Declaration over the subject property is under the name of Abundia Cruz dated January 10, 1994. [(Cruz)] claims that [(San Pedro)], who is claimed by [(DMCI)] to be the former owner of the subject land, is one of the children of Dionisio Dionisio who was a previous tenant of the land; and that the tax declaration in the name of [(San Pedro)], all dated 1995 or 1994, cannot be considered as evidence of ownership.

[(Cruz)] died during trial. Upon motion of his heirs, [(represented by Macaria Cruz Estacio (Cruz heirs))], the MeTC granted the motion for substitution in an [O]rder dated August 20, 2003.

After trial, the MeTC issued a [D]ecision denying the application on the ground that [(DMCI)] failed to prove its actual possession of the property and the possession of its predecessor-in-interest since June 12, 1945 or earlier. x x x

x x x x

[(DMCI)] filed a motion for reconsideration from the [D]ecision dated July 28, 2011 claiming that 1) inconsistencies in the testimony of San Pedro with respect to minor details may be disregarded without impairing the credibility of the witness; and 2) [(DMCI)] has proven its open, continuous, exclusive, and notorious possession and occupation of the subject property since June 12, 1945.

⁶ Rollo, pp. 35-36.

⁷ Former Special Third Division.



[Cruz heirs] opposed the motion for reconsideration, claiming that the testimony of San Pedro is not only inconsistent but also false considering that [DMCI] failed to prove open, continuous, and notorious possession over the subject property.

x x x Republic of the Philippines [(Republic)], through the Office of the Solicitor General (OSG), also opposed the motion for reconsideration, claiming that there is no showing that the subject land forms part of the disposable and alienable lands of public domain and the documents offered in evidence to prove this (survey plan and field inspection report) are not enough based on prevailing jurisprudence; that neither [DMCI] nor its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject land in the concept of an owner since June 12, 1945 or earlier[.] x x x San Pedro's inconsistent statements, as enumerated by the MeTC, are clearly material and the documentary evidence presented by [DMCI] did not show the required possession and occupation.

On September 7, 2012, the MeTC issued the assailed [O]rder granting the motion for reconsideration and confirming the title of [DMCI] over the subject property. The said court ruled that even if [DMCI's] earlier tax declaration was only for the year 1995, such fact will not militate against the title of the former because as long as the testimony supporting possession for the required period is credible, the court will grant the petition for registration; that [DMCI] has acquired [registrable] title over the subject property anchored on its predecessors-in-interest's possession tracked down from the time before the Japanese occupation; that the subject property is within the area that was already declared as alienable and disposable, as shown by the conversion plan and field inspection report for the subject property; and that the inconsistencies in the testimony of San Pedro are minor which can be disregarded considering the other pieces of evidence presented by [DMCI].

[The dispositive portion of the MeTC Order dated September 7, 2012 states:

WHEREFORE, the applicant's Motion for Reconsideration is granted. The Decision dated July 28, 2011 is hereby reconsidered and judgment is hereby rendered confirming the title of D.M. Consunji, Inc. x x x over Lot 5174-A of conversion plan Swo-00-001460 covering an area of Four Thousand Eight Hundred Thirty Nine (4,839) square meters situated at Barangay Bambang, Taguig City, Metro Manila.

Upon finality of this Order and payment of the corresponding taxes due on the said lot, let an Order for the issuance of decree of registration be issued.

Furnish the applicant, the oppositor, their respective counsel, all government agencies copy of this Order.

SO ORDERED.⁸

⁸ Rollo, p. 56.



Hence, the appeal to the CA, which it found to have merit.]⁹

Ruling of the CA

The CA in its Decision dated February 23, 2017 granted the appeal. The CA held that DMCI failed to prove the following requisites under Section 14(1) of Presidential Decree No. (PD) 1529 for land registration or judicial confirmation of incomplete or imperfect title: (1) the subject land forms part of the disposable and alienable lands of the public domain, and (2) the applicant has been in open, continuous, exclusive and notorious possession and occupation of the same under a *bona fide* claim of ownership since June 12, 1945, or earlier.¹⁰

Regarding the first requirement, the CA held that the Survey Plan for Lot No. 5174-A, where there is a notation which states that “this survey is inside the alienable and disposable land area as per project no. 27-B certified by the Bureau of Forest Development dated 03 January 1968” and the Field Inspection Report issued by the South Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR) and the verification of the CENRO officer are inadequate to prove that the Subject Land is alienable or disposable.¹¹

Anent the second requirement, the evidence on record is insufficient to prove that San Pedro or her father (Dionisio Dionisio) possessed or occupied the Subject Land in the concept of an owner since June 12, 1945 or earlier as the records do not show proof of how San Pedro’s father came to own the Subject Land and how she inherited the same from her father and she admitted that the Subject Land was only declared for tax purposes for the first time in 1995.¹²

The dispositive portion of the CA Decision states:

WHEREFORE, the appeal is **GRANTED**. The order issued by the Metropolitan Trial Court of Taguig City Branch 74 dated September 7, 2012 in LRC Case No. 37 is **REVERSED** and **SET ASIDE**. The application for land registration filed by applicant-appellee D.M. Consunji, Inc. is **DENIED**.

SO ORDERED.¹³

DMCI filed a motion for reconsideration, which was denied by the CA in its Resolution¹⁴ dated August 2, 2017.

⁹ Id. at 24-30.

¹⁰ Id. at 30-34.

¹¹ Id. at 30-32.

¹² Id. at 32-34.

¹³ Id. at 34 to 34-A.

¹⁴ Id. at 35-36.



Hence, the instant Rule 45 Petition. The Cruz heirs filed their Comment¹⁵ dated September 26, 2017. DMCI filed a Reply¹⁶ dated September 7, 2018.

The Issues

The Petition raises the following issues:

1. whether the CA erred in ruling that DMCI failed to sufficiently prove that the Subject Land forms part of the alienable and disposable land of the public domain.
2. whether the CA erred in ruling that DMCI failed to sufficiently prove that its predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the Subject Land under a *bona fide* claim of ownership since June 12, 1945 or earlier.

The Court's Ruling

The Petition lacks merit.

Proof of alienability and disposability

DMCI insists that the Field Inspection Report conducted by the CENRO and the Survey Plan of the Subject Land are adequate to prove that the Subject Land is included in the disposable and alienable lands of the public domain because the said Report contains the following statements:

1. **The land is covered by Survey Plan Swo-00-001-1460** (5174 MCadm-590-D) approved by the Director of Lands and re-approved by the Bureau of Lands DENR-NCR **pursuant to Presidential Decree No. 239 dated July 9, 1975;**

x x x x

3. **The entire area is within the alienable and disposable zone as classified under Project No. 27-B, L.C. Map No. 2623;**

x x x x

7. **It is covered by Tax Declaration No. D-010-00691 in the name of DMCI Project Developers, Inc.**¹⁷ (Emphasis and underscoring supplied)

DMCI invokes *Victoria v. Republic*¹⁸ (*Victoria*) and claims that the same pieces of evidence which it adduced were presented by the applicant therein and the Court effectively recognized in *Victoria* the authority of a

¹⁵ Id. at 121-140.

¹⁶ Id. at 152-162.

¹⁷ Id. at 8-9.

¹⁸ 666 Phil. 519 (2011).

Forest Management Specialist to issue a certification whether certain public lands are alienable and disposable.¹⁹

In *Victoria*, Natividad Sta. Ana Victoria (Natividad) applied for registration of title to a 1,729-square meter lot in Bambang, City of Taguig before the MeTC of that city. To show that the subject lot is a portion of the land with an area of 17,507 square meters originally owned by her father Genaro Sta. Ana, she presented Lot 5176-D, Mcadm-590-D of the Taguig Cadastral Mapping. The Conversion/Subdivision Plan that Natividad presented in evidence showed that the land is inside the alienable and disposable area under Project 27-B as per LC Map 2623, as certified by the Bureau of Forest Development on January 3, 1968. The DENR Certification submitted by Natividad reads:

This is to certify that the tract of land as shown and described at the reverse side of this Conversion/Subdivision Plan of Lot 5176 MCadm 590-D, Taguig Cadastral Mapping, Csd-00-000648, containing an area of 17,507 square meters, situated at Bambang, Taguig City, Metro Manila, as surveyed by Geodetic Engineer Justa M. de las Alas for Marissa S. Estopalla, *et al.*, was verified to be within the Alienable or Disposable Land, under Project No. 27-B, Taguig City, Metro Manila as per LC Map 2623, approved on January 3, 1968.²⁰ (Emphasis omitted)

The Court²¹ issued a Resolution dated July 28, 2010 requiring the OSG to verify from the DENR whether the Senior Forest Management Specialist of its National Capital Region, Office of the Regional Technical Director for Forest Management Services, who issued the aforesaid certification, was authorized to issue certifications on the status of public lands as alienable and disposable, and to submit a copy of the administrative order or proclamation that declared as alienable and disposable the area where the property involved in *Victoria* was located, if there be any. In compliance, the OSG submitted a certification from the DENR that Senior Forest Management Specialist Corazon D. Calamno, who signed Natividad's DENR Certification, was authorized to issue certifications regarding status of public land as alienable and disposable land. The OSG also submitted a certified true copy of Forestry Administrative Order 4-1141 dated January 3, 1968, signed by then Secretary of Agriculture and Natural Resources Arturo R. Tanco, Jr., which declared portions of the public domain covered by Bureau of Forestry Map LC-2623, approved on January 3, 1968, as alienable and disposable.²²

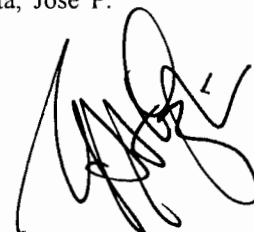
The Court in *Victoria* observed that:

¹⁹ *Rollo*, p. 9.

²⁰ *Victoria v. Republic*, supra note 18, at 525.

²¹ Second Division composed of Associate Justices Antonio T. Carpio, Diosdado M. Peralta, Jose P. Perez, Jose C. Mendoza and Roberto A. Abad, as *ponente*.

²² *Victoria v. Republic*, supra note 18, at 525-526.



Since the OSG does not contest the authenticity of the DENR Certification, it seems too hasty for the CA to altogether disregard the same simply because it was not formally offered in evidence before the court below. More so when even the OSG failed to present any evidence in support of its opposition to the application for registration during the trial at the MeTC. The attack on [Natividad's] proof to establish the nature of the subject property was made explicit only when the case was at the appeal stage in the Republic's appellant's brief. Only then did [Natividad] find it necessary to present the DENR Certification, since she had believed that the notation in the Conversion/Subdivision Plan of the property was sufficient.

In *Llanes v. Republic*,²³ this Court allowed a consideration of a CENRO Certification though it was only presented during appeal to the CA to avoid a patent unfairness. The rules of procedure being mere tools designed to facilitate the attainment of justice, the Court is empowered to suspend their application to a particular case when its rigid application tends to frustrate rather than promote the ends of justice.²⁴ Denying the application for registration now on the ground of failure to present proof of the status of the land before the trial court and allowing [Natividad] to re-file her application would merely unnecessarily duplicate the entire process, cause additional expense and add to the number of cases that courts must resolve. It would be more prudent to recognize the DENR Certification and resolve the matter now.²⁵

On the other hand, the CA in its Decision cites *Sps. Fortuna v. Republic*²⁶ (*Sps. Fortuna*) in support of its position that either the Survey Plan or the DENR-CENRO certification is sufficient proof that the Subject Land is alienable and disposable.²⁷ In *Sps. Fortuna*, the CA declared that the alienable nature of the subject land therein was established by the notation in the survey plan, which states: "This survey is *inside alienable and disposable area* as per Project No. 13 L.C. Map No. 1395 certified August 7, 1940. It is outside any civil or military reservation."²⁸ However, the Court²⁹ in *Sps. Fortuna* ruled:

Mere notations appearing in survey plans are inadequate proof of the covered properties' alienable and disposable character.³⁰ These notations, at the very least, only establish that the land subject of the application for registration falls within the approved alienable and disposable area per verification through survey by the proper government office. **The applicant, however, must also present a copy of the original classification of the land into alienable and disposable land, as declared by the DENR Secretary or as proclaimed by the President.**³¹ In *Republic v. Heirs of Juan Fabio*,³² the Court ruled that

²³ 592 Phil. 623 (200).

²⁴ *Victoria v. Republic*, supra note 18, at 527, citing *Llanes v. Republic*, id. at 633-634.

²⁵ Id. at 526-527.

²⁶ 728 Phil. 373 (2014).

²⁷ *Rollo*, p. 31.

²⁸ *Sps. Fortuna v. Republic*, supra note 26, at 384.

²⁹ Second Division composed of Associate Justice Antonio T. Carpio, Mariano C. Del Castillo, Jose P. Perez, Estela M. Perlas-Bernabe and Arturo D. Brion, as *ponente*.

³⁰ *Sps. Fortuna v. Republic*, supra note 26, at 384, citing *Republic v. Tri-Plus Corp.*, 534 Phil. 181, 194 (2006); and *Republic v. Medida*, 692 Phil. 454, 464 (2012).

³¹ Id., citing *Republic v. T.A.N. Properties, Inc.*, 578 Phil. 441, 452-453 (2008).

³² 595 Phil. 664 (2008).

[t]he applicant for land registration must prove that *the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO³³ or CENRO*. In addition, the applicant must present **a copy of the original classification of the land into alienable and disposable, as declared by the DENR Secretary, or as proclaimed by the President.**

The survey plan and the DENR-CENRO certification are not proof that the President or the DENR Secretary has reclassified and released the public land as alienable and disposable. The offices that prepared these documents are *not the official repositories or legal custodian* of the issuances of the President or the DENR Secretary declaring the public land as alienable and disposable.³⁴

In the recent case of *In Re: Application for Land Registration, Suprema T. Dumo v. Republic of the Philippines*,³⁵ the Court reiterated the requirement it set in *Republic v. T.A.N. Properties, Inc.*³⁶ (*T.A.N. Properties*) that there are two documents which must be presented to prove that the land subject of the application for registration is alienable and disposable. These are: (1) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records, and (2) a certificate of land classification status issued by the CENRO or the Provincial Environment and Natural Resources Office (PENRO) based on the land classification approved by the DENR Secretary.³⁷ It must be noted that *Sps. Fortuna* made reference to *T.A.N. Properties*.

Victoria and *Sps. Fortuna* are not incompatible with each other. In fact, they are complementary.

To recall, the Court ordered the OSG in *Victoria*³ to verify from the DENR whether the Senior Forest Management Specialist, who issued the certification, was authorized to issue certifications on the status of public lands as alienable and disposable, and to submit a copy of the administrative order or proclamation that declared as alienable and disposable the area where the property therein was located. In compliance therewith, the OSG submitted a certification from the DENR that the officer, who signed the DENR Certification, was authorized to issue certifications regarding status of public land as alienable and disposable land and a certified true copy of Forestry Administrative Order 4-1141 dated January 3, 1968, signed by then

³³ Provincial Environment and Natural Resources Office.

³⁴ *Sps. Fortuna v. Republic*, supra note 26, at 384-385, citing *Republic v. T.A.N. Properties, Inc.*, supra note 31, at 451.

³⁵ G.R. No. 218269, June 6, 2018.

³⁶ Supra note 31.

³⁷ *Dumo*, supra note 35, at 16.



Secretary of Agriculture and Natural Resources Arturo R. Tanco, Jr. (Secretary Tanco), which declared portions of the public domain covered by Bureau of Forestry Map LC-2623, approved on January 3, 1968 as alienable and disposable. It is clear that the contents of the two documents, adverted to above, that are needed to be presented to prove that the land subject of the application for registration is alienable and disposable land of the public domain have been substantially reflected in those submissions.

Unfortunately, in this case, the OSG has not been required to make the necessary verification and has not submitted the two documents that it submitted in *Victoria*. The invocation by DMCI of *Victoria* in this case is, thus, misplaced.

The stance of the Court in *Victoria* is understandable. It was convinced that: “[Natividad] has, contrary to the Solicitor General’s allegation, proved that she and her predecessors-in-interest had been in possession of the subject lot continuously, uninterruptedly, openly, publicly, adversely and in the concept of owners since the early 1940s. In fact, she has submitted tax declarations covering the land way back in 1948 that appeared in her father’s name.”³⁸

***Proof of open, continuous, exclusive
and notorious possession since June
12, 1945 or earlier***

The Court will now proceed to the second issue, which is factual. Under the Rules, a Rule 45 petition for review on *certiorari* shall raise only questions of law³⁹ and a review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor.⁴⁰

DMCI has not directly pointed to any of the exceptions where the Court may review the findings of fact of the CA in a Rule 45 *certiorari* petition. However, based on its arguments, it appears that DMCI is invoking the MeTC’s Order dated September 7, 2012 wherein it stated that the issue on the open, continuous, exclusive and notorious possession since June 12, 1945 by DMCI and its predecessors-in-interest was testified on by Hilberto Hostillero, representative of DMCI, Francisco Esteban, former tenant of its predecessor-in-interest, Eugenio Castro, adjoining owner, and San Pedro; and such proof of possession was bolstered by the Field Inspection Report of DENR Special Investigator, Antonio M. Lachica.⁴¹ Since the findings of fact of the trial court are at odds with those of the CA, the Court is allowed to make a fact-check.

³⁸ *Victoria v. Republic*, supra note 18, at 527-528.

³⁹ RULES OF COURT, Rule 45, Sec. 1.

⁴⁰ *Id.*, Rule 45, Sec. 6.

⁴¹ *Rollo*, p. 14.

While DMCI insists that its evidence is sufficient, DMCI has, however, failed to squarely address the CA's finding in its Decision that the records do not show proof of how San Pedro's father came to own the Subject Land and how she inherited the same from her father. These are crucial facts that DMCI needed to establish to show that its predecessor-in-interest had prior valid claim of ownership over the Subject Land. Precisely, San Pedro's claim of ownership rests on these crucial facts, and without them such claim becomes tenuous. With these facts missing, the Court wholly agrees with the CA that "evidence on record is insufficient to prove that San Pedro or her father possessed or occupied the subject land in the concept of an owner since June 12, 1945, or earlier."⁴²

Also, the evidence that the Cruz heirs adduced to disprove DMCI's claim of ownership, including Tax Declaration No. 10845 dated October 26, 1941, cast serious doubt on DMCI's evidence to show its and its predecessors-in-interest's open, continuous, exclusive and notorious possession and occupation since June 12, 1945 or earlier.

Without the Court being convinced that the CA erred in its ruling with respect to the second issue, the Court cannot extend to DMCI the latitude it accorded to Natividad in *Victoria*.

WHEREFORE, the Petition is hereby **DENIED**. The Decision dated February 23, 2017 and Resolution dated August 2, 2017 of the Court of Appeals in CA-G.R. CV No. 99963 are **AFFIRMED**.

SO ORDERED.




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴² Id. at 33-34.

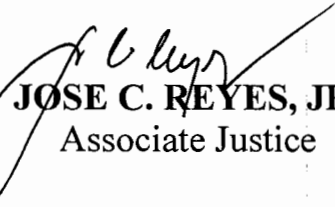
WE CONCUR:




ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice




JOSE C. REYES, JR.
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice

ATTESTATION

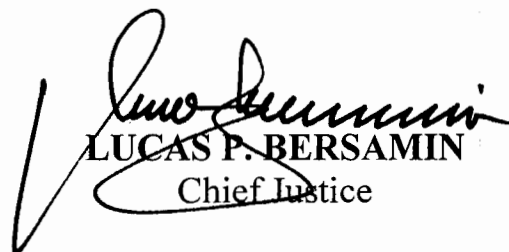
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

