Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

FIL-ESTATE MANAGEMENT, INC., MEGATOP REALTY DEVELOPMENT, INC., PEAKSUN ENTERPRISES AND EXPORT CORPORATION, ARTURO E. DY and ELENA DY JAO,
Petitioners,

- versus -

REPUBLIC OF THE PHILIPPINES and SPOUSES SANTIAGO T. GO,* and NORMA C. GO, represented by their son and attorney-in-fact KENDRICK C. GO,
Respondents.

G.R. No. 192393

Present:

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

Promulgated:

27 MAR 2019

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RESOLUTION

CAGUIOA, *J.*:

Before the Court is a Petition for *Partial* Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court seeking the partial review of the Decision[2] dated July 15, 2008 (Decision) and Resolution[3] dated May 24, 2010 of the Court of Appeals[4] (CA) in CA-G.R. CV No. 84090. The CA Decision granted the appeal, set aside the Decision[5] dated September 22, 2004 rendered by the Regional Trial Court of Las Piñas City, Branch 253 (RTC) in LRC Case No. LP-00-0111, and dismissed the application for land registration filed by spouses Santiago and Norma Go (spouses Go) over

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* Deceased and substituted by his heirs, namely: Norma Chan Go, Kendrick Chan Go, Kaiser Chan Go and Kleber Chan Go.

1 *Rollo*, pp. 10-62, excluding Annexes.

2 Id. at 64-74. Penned by Associate Justice Romeo F. Barza, with Associate Justices Mariano C. Del Castillo (now a Member of this Court) and Arcangelita M. Romilla-Lontok concurring.

3 Id. at 76-77. Penned by Associate Justice Romeo F. Barza, with Associate Justices Hakim S. Abdulwahid and Rodil V. Zalameda concurring.

4 Twelfth Division and Special Former Twelfth Division.

5 *Rollo*, pp. 619-623. Penned by Acting Presiding Judge Elizabeth Yu-Guray.

three parcels of land situated at Almanza, Las Piñas City. The CA Resolution denied the motion for partial reconsideration filed by Fil-Estate Management, Inc., Megatop Realty Development, Inc., Peaksun Enterprises and Export Corporation, Arturo E. Dy and Elena Dy Jao (collectively, petitioners or Fil-Estate Consortium).

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

> In the application for registration of title filed by applicants and now appellees, spouses Santiago and Norma Go (or appellees) over three (3) parcels of land situated at Almanza, Las Piñas City, designated as Lots Nos. 7, 8 and 14 of SWO-19265-psu-11411-Amd-2, containing [the areas] of 54,847 square meters, 91,921 square meters and 76,513 square meters, respectively, Branch 253 of the Regional Trial Court of Las Piñas City, disposed that:
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> > WHEREFORE, finding merit on the instant petition, the same is GRANTED. Accordingly, enter a decree of confirmation and registration in favor of applicants Spouses Santiago T. Go and Norma C. Go in so far as the aforementioned parcels of land is (*sic*) concerned.
> > x x x
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> To support their petition and to meet the jurisdictional requirements imposed by law, appellees submitted the following documents [Exhs. "A" to "G".]
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> x x x x
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> The Republic of the Philippines, through the Office of the Solicitor General (or OSG), filed a Notice of Appearance authorizing the City Prosecutor of Las Piñas to appear in its behalf.
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> Oppositors-appellants Fil-Estate Management, Inc., Peaksun Enterprises and Export Corporation, Megatop Realty Development, Inc., Arturo Dy and Elena Dy Jao (or appellants) entered their Opposition. On October 3, 2002, the court *a quo* issued an order of general default except against the State and the oppositors.
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> In proving their claim of ownership, appellees presented Exhibit "M" x x x, to show that they bought Lot 7 from Arturo Pascua on October 16, 1975, Exhibit "K" x x x, to show that they bought Lot 8 from Jacinto Miranda on October 6, 1967 and Exhibit "L" x x x, to show that they bought Lot 14 also from Jacinto Miranda on December 29, 1964. To further prove their status as owners, appellees declared the properties for taxation purposes (Exhs. "N" to "Q" x x x).
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> On the other hand, appellants presented a Deed of Absolute Sale (Exh. "17" x x x) executed on April 28, 1989, to prove that they are the owners of 7 parcels of land in the same area having bought the same from Goldenrod, Inc. According to appellants, the portions of the land being applied for by appellees for registration of title overlap the titled properties in the name of Fil-Estate Consortium, hence, these could not be subject to

land registration. Appellants averred that Lot No. 8 overlaps a portion of Fil-Estate Consortium's property under TCT No. 9181. The precise metes and bounds of the overlap comprises an area of 69,567 square meters. As to Lot No. 14, this overlaps the property of Fil-Estate Consortium under TCT Nos. 9180, 9181 and 9182 with the total overlap area of 56,173 square meters.

Despite the opposition, the application for title was granted by the court *a quo*. Appellants, however, appealed this alleging that the following reversible errors were committed:

A

[The court *a quo* disregarded existing law and jurisprudence when it rendered judgment in the case *a quo* without seeking, requiring and considering the report of the Land Registration Authority on whether or not the parcels of land applied for by the applicants-appellees overlap Torrens titled properties.]

B

[In rendering judgment without seeking, requiring and considering the report of the Land Registration Authority, the court *a quo* violated the well settled rule that land already decreed, titled and registered under the Torrens system of registration cannot be applied for and be subject of a subsequent application for registration. As such, its September 22, 2004 Decision was rendered without jurisdiction and, consequently, null and void.]

C

[The court *a quo* disregarded applicants-appellees' failure to submit the original tracing cloth plan of Plan Psu-11411-Amd-2 in evidence in granting the Petition.]

D

[The court *a quo* erred in fact and in law in granting the petition for original registration despite applicants-appellees' failure to establish that they had been in open, continuous, exclusive and notorious possession and actual occupation of the subject lots in the concept of an owner since June 12, 1945.]

The OSG appealed stating the lone error that:

[The applicants-appellees utterly failed to present sufficient evidence that they have been the owners in fee simple of the land they are seeking to register since June 12, 1945 or earlier x x x.][6]

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6 Id. at 64-69.

Ruling of the CA

The CA in its Decision dated July 15, 2008 granted the appeal. The CA only resolved the issue on whether spouses Go were able to comply with the requirements imposed by law before the registration of title could be granted and found it unnecessary to dwell on the assigned errors individually.[7]

The CA held that spouses Go failed to prove (1) that the land applied for is alienable public land; and (2) they openly, continuously, exclusively and notoriously possessed and occupied the same since June 12, 1945 or earlier.[8] The CA noted that the tax declarations presented by them show that the earliest payment was made only in 1991.[9] The CA was not convinced with the sufficiency of the evidence adduced by spouses Go as to their possession and occupation, and ruled that they failed to discharge the burden of proof required from applicants in land registration cases to show clear, positive and convincing evidence that their alleged possession and occupation were of the nature and duration required by law.[10]

The dispositive portion of the CA Decision states:

> **WHEREFORE**, the appeal is **GRANTED**. The decision dated September 22, 2004, is **SET ASIDE**. The application for registration of title is hereby **DISMISSED**.
>
> **SO ORDERED**.[11]

The petitioners filed a motion for partial reconsideration, which was denied by the CA in its Resolution dated May 24, 2010.[12] The petitioners took exception to the CA's finding that there is no evidence on record that the parcels of land subject of the registration have been classified as alienable or disposable since portions thereof have been proved during trial that they are private property covered by Torrens titles in the name of the Fil-Estate Consortium.[13]

Hence, the instant Rule 45 Petition. The Republic of the Philippines, through the Office of the Solicitor General (OSG) filed a Comment[14] dated December 13, 2010. Petitioners filed a Reply[15] dated April 25, 2011. Spouses Go filed a Motion to Substitute Parties with Motion for Extension of Time to File Comment[16] dated July 28, 2011, informing the Court of the

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7 Id. at 69.
8 See id. at 69-71.
9 Id. at 71.
10 Id. at 72-73.
11 Id. at 73.
12 Id. at 76-77.
13 Id. at 79.
14 Id. at 875-895.
15 Id. at 907-922.
16 Id. at 926-933, inclusive of Annexes.

death of Santiago Go on April 12, 2011, and seeking the substitution of the deceased by his heirs Norma Chan Go, his widow, as well as Kendrick Chan Go, Kaiser Chan Go and Kleber[17] Chan Go, his sons, as represented by their attorney-in-fact Kendrick C. Go (collectively, the Go family). The said Motion was granted by the Court in its Resolution[18] dated September 5, 2011. The Go family filed their Comment[19] dated September 2, 2011 and Supplemental Comment[20] dated March 6, 2012. Petitioners filed their Reply[21] dated March 30, 2012.

The Issue

The Petition raises essentially the following issue: whether the CA erred in not partially reversing its July 14, 2008 Decision insofar as it found that all lands applied for by spouses Go are lands of the public domain and partially modifying the same to declare that the lands already titled in the name of the Fil-Estate Consortium (and which are overlapped by the spouses Go's application for original land registration) under the Torrens system are private properties and can no longer be subject of any land registration proceedings.

The Court's Ruling

Petitioners want the Court to review the evidence that they adduced before the RTC on their claim that the parcels of land applied for by spouses Go overlap with their Torrens titles.[22] For this purpose, they rely on the testimony of their witness, Engineer Rolando Cortez (Engr. Cortez), as to the encroachments of the parcels of land applied for on their Transfer Certificates of Title Nos. (TCTs) T-9180, T-9181 and T-9182.[23] According to petitioners, since portions of the parcels of land applied for are already titled, the RTC Decision is correct in denying the land registration application of spouses Go.[24]

Based on the foregoing, petitioners take the position that the RTC Decision was erroneous insofar as it held that all the lands applied for by spouses Go, without distinction and which would presumably encompass the titled lands of petitioners, form part of the public domain and belonged to the State under the Regalian doctrine.[25] As regards the CA Decision, petitioners take issue on the statement that "[n]othing in the record would show that the lands subject of registration have been classified as alienable

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17 Also spelled as "Kieber" in some parts of the records.
18 *Rollo*, pp. 933-A to 933-B.
19 Id. at 936-955.
20 Id. at 986-990, including Annex.
21 To the Go family's Comment and Supplemental Comment, id. at 994-1002.
22 *Rollo*, p. 33.
23 Id. at 34-36.
24 See id. at 37.
25 Id.

or disposable by the property (*sic*) government agency."[26] They cite that the lands under TCTs T-9180, T-9181 and T-9182 were originally registered under Original Certificate of Title No. (OCT) 5277 issued on May 26, 1966 pursuant to Decree No. N-108906 and OCT 5442 issued on August 17, 1966 pursuant to Decree No. N-110141.[27] As such, they conclude that as early as 1966, these lands have been segregated from the public domain and became private property.[28]

Petitioners claim that the CA ruling which categorized the lands applied for by spouses Go as public lands, effectively took away portions of the property covered by their titles without due notice and hearing.[29]

Petitioners further argue that the CA unwittingly sanctioned a collateral attack on their TCTs when the CA ruled that all lands applied for by spouses Go belonged to the public domain.[30] Accordingly, to petitioners, the CA Decision has raised a cloud over their Torrens titles.[31]

In its Comment, the OSG counters that the testimony of Engr. Cortez, petitioners' expert witness, is contradictory, doubtful and self-serving.[32] The OSG points out that in their opposition to the application, petitioners claimed that there was an overlapping of 128,763 square meters; however, based on Engr. Cortez's testimony, the extent of overlapping is 140,267 square meters, leaving a discrepancy of 11,504 square meters.[33] The OSG also questions the survey plan of petitioners as self-serving since they commissioned Engr. Cortez to prepare the said survey plan and the same was not approved by the proper government agency.[34]

The OSG likewise quotes the portion of the RTC Decision which ruled that there is no overlapping,[35] and invokes the doctrine that findings of fact of the trial court and its conclusions are to be accorded by the Court with high respect, if not conclusive effect especially when affirmed by the appellate court.[36]

Further, the OSG argues that it was incumbent upon petitioners to have their lands re-surveyed by the Department of Environment and Natural Resources in order to finally settle the issue of overlapping.[37]

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26 Id.
27 Id. at 40-41.
28 Id. at 41.
29 Id. at 32.
30 Id. at 47.
31 Id. at 43.
32 Id. at 882.
33 Id. at 883.
34 Id.
35 Id. at 888-890.
36 Id. at 890.
37 Id. at 891-892.

Finally, the OSG posits that the Rule 45 Petition is improper since it will make the Court a trier of facts.[38] The review of the issue of overlapping entails examination of facts or the evidence on record.[39]

On the part of the Go family, they seek the denial of the Petition on the ground that it will make the Court a trier of facts given the rejection of petitioners' claim of overlapping by the RTC and the lack of conflict on such issue in the CA Decision since the CA skirted the issue.[40] Nevertheless, the Comment of the Go family seeks the reinstatement of the RTC Decision and the reversal of the CA Decision as well as the declaration of the parcels of land subject of the application for registration as alienable and disposable.[41]

On this point, since the dismissal by the CA of the application for land registration filed by spouses Go was not appealed to the Court by the applicants, and because this dismissal is not questioned by petitioners, except only on the resolution of their claim against the parcels of land applied for, it is clear that the dismissal of spouses Go's application for registration of title has already attained finality and even this Court can no longer review the same.[42]

The pertinent provisions of Presidential Decree No. (PD) 1529[43] or the Property Registration Decree in relation to ordinary original registration proceedings are:

> SEC. 25. *Opposition to application in ordinary proceedings.* – Any person claiming an interest, whether named in the notice or not, may appear and file an opposition on or before the date of initial hearing, or within such further time as may be allowed by the court. The opposition shall state all the objections to the application and shall set forth the interest claimed by the party filing the same and apply for the remedy desired, and shall be signed and sworn to by him or by some other duly authorized person.
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> If the opposition or the adverse claim of any person covers only a portion of the lot and said portion is not properly delimited on the plan attached to the application, or in case of undivided co-ownership, conflicting claims of ownership or possession, or overlapping of boundaries, the court may require the parties to submit a subdivision plan duly approved by the Director of Lands.
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> SEC. 29. *Judgment confirming title.* – All conflicting claims of ownership and interest in the land subject of the application shall be

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38 Id. at 892.

39 Id.

40 See id. at 942-946.

41 Id. at 952.

42 A judgment becomes "final and executory" by operation of law since finality of judgment becomes a fact upon the lapse of the reglementary period to appeal if no appeal is perfected. *City of Manila v. Court of Appeals*, 281 Phil. 408, 413 (1991).

43 AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES, approved on June 11, 1978.

> determined by the court. If the court, after considering the evidence and the reports of the Commissioner of Land Registration and the Director of Lands, finds that the applicant or the oppositor has sufficient title proper for registration, judgment shall be rendered confirming the title of the applicant, or the oppositor, to the land or portions thereof.

Given the foregoing parameters, the RTC disposed of petitioners' claim of overlapping in this wise:

> Record shows that the oppositors filed a motion requiring the LRA to investigate and report thereafter if Lots 7, 8 and 14 of Plan SWO-19265-Psu-11411-Amd 2 overlapped certain titled properties. The said motion was denied (re: Order, October 21, 2003). Although a motion for reconsideration of the said Order of denial was expected, none was filed. To date, no such report has been filed by the appropriate government agency. Consequently, it is not clear whether Lots 8 and 14 overlapped Fil-Estate's property covered by TCT Nos. T-9180, T-9181 and T-9182. It should be emphasized that the Court shall consider the reports of the Commissioner of the LRA and the Director of Lands in the rendition of judgment confirming title to the subject land (cf. Section 29 of the *Property Registration Decree*).
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> Noteworthy is the testimony of oppositor's witness Engr. Rolando Cortez, on cross-examination, that the property claimed to be registered under the name of Fil-Estate is based on the survey plans Psu-56007 under (AP 11315) (Exhibit "21") and Pcs-8781 (Exhibit "20"). Plan Psu-56007, as testified, is not valid for registration and Pcs-8781, per the footnote of the LRA, is likewise not valid for registration (TSN of November 17, 2003, pp. 28-31). Prudence dictates that Engr. Cortez should have verified the same in order to strengthen the oppositor's claim of overlapping. When a witness affirms a fact, it is a positive testimony which is entitled to a greater weight than that of a negative testimony (cf. *Arboleda vs. NLRC*, 303 SCRA 38). However, such fact must be substantiated, otherwise, it becomes a mere allegation, which is not evidence (cf. *Luxuria Homes, Inc. vs. Court of Appeals*, 302 SCRA 315). Furthermore, Engr. Cortez did not explain what relationship there is between plan Psu-56007 and plan Psu-11411 of the applicants and the lots they cover so as to ascertain whether or not they cover the same parcels of land and its extent. This being so, oppositor's contention of overlapping is not distinctively established. Perforce, applicants' Lots 8 and 14 could not have overlapped oppositors' property covered by TCT Nos. T-9180, T-9181 and T-9182.[44]

To reiterate, since the RTC found that petitioners' contention of overlapping was "not distinctively established" by their evidence, which mainly consisted of the testimony of their witness Engr. Cortez, the parcels of land that spouses Go were applying for land registration "could not have overlapped" the properties of petitioners covered by TCTs T-9180, T-9181 and T-9182.

After rejecting petitioners' contention, the RTC proceeded to evaluate the evidence that spouses Go presented, *i.e.*, Deeds of Sale of Lots 7, 8 and

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[44] *Rollo*, p. 622.

14 executed on October 16, 1975, October 6, 1967 and December 29, 1964, respectively, and tax declarations,[45] and noted that "the Deed of Sale executed by Fil-Estate and Golden Rod, Inc., covering the subject property, was on April 20, 1987."[46] Given these observations, the RTC concluded that spouses Go were presumed to have first possessed the subject properties and their claim of ownership over the same was preponderantly more tenable than that of petitioners.[47]

As mentioned earlier, the CA, on appeal, only resolved the issue on spouses Go's compliance with the following requirements imposed by law before the registration of title could be granted: (1) satisfactory proof that the land applied for is alienable public land; (2) the applicants' open, continuous, exclusive and notorious possession and occupation thereof since June 12, 1945 or earlier. The other issues raised in the appeal were deemed inconsequential by the CA.

The CA, in not ruling directly on petitioners' claim of overlapping, effectively upheld the RTC's finding that petitioners failed to preponderantly prove that parcels of land subject of the application for registration of title overlap the property covered by their Torrens titles.

To the mind of the Court, the RTC acted conformably with Section 25 of PD 1529, which provides that "[i]f the opposition or the adverse claim of any person covers only a portion of the lot and said portion is not properly delimited on the plan attached to the application, x x x conflicting claims of ownership or possession, or overlapping of boundaries, the court may require the parties to submit a subdivision plan duly approved by the Director of Lands." As worded, it is discretionary on the part of the land registration court to require the parties to submit a subdivision plan duly approved by the appropriate government agency. Regardless of how the said court exercises its discretion, the burden remains with the oppositor or adverse claimant to convince by preponderance of evidence the land registration court that there is an overlapping of boundaries. In this case, petitioners failed.

Likewise, the RTC acted conformably with Section 29 of PD 1529. Since the RTC was not persuaded by petitioners' evidence that there is an overlapping of boundaries, then the conflicting claims of ownership and interest in the parcels of land subject of the application were resolved in favor of spouses Go and, on this basis, the RTC granted their application. However, the CA set aside the RTC Decision and dismissed spouses Go's application for registration of title.

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45 Id. at 623.
46 Id.
47 Id.

The CA, in turn, also acted correctly based on its findings that spouses Go failed to prove that the parcels of land applied for are alienable public land, and they openly, continuously, exclusively and notoriously possessed and occupied the same since June 12, 1945 or earlier. Indeed, the deeds of sale and tax declarations that spouses Go adduced are insufficient to prove that the subject parcels of land are alienable and disposable land of the public domain and their imperfect title thereon.

In light of the foregoing, the arguments of petitioners that the CA allowed a collateral attack on their Torrens titles, created a cloud thereon, and deprived them thereof without due process are sheer speculations. The RTC as well as the CA did not make any categorical ruling on the validity of petitioners' Torrens titles. Nor did they declare that the areas covered by petitioners' Torrens titles are inalienable lands of the public domain.

In fine, petitioners' Rule 45 *certiorari* Petition must fail.

As provided in Section 6, Rule 45 of the Rules of Court, a review by the Court is not a matter of right, but of its sound discretion, and will be granted only when there are special and important reasons therefor. Petitioners have failed to convince the Court that the RTC and the CA have decided a question of substance, not theretofore determined by the Court, or have decided it in a way probably not in accord with law or with the applicable decisions of the Court, or have so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the Court's power of supervision.[48]

Also, the Court cannot accord the desired review in view of the failure of petitioners to cite the applicable recognized exceptions to the settled rule that the Court, not being a trier of facts, is under no obligation to examine, winnow, and weigh anew evidence adduced below.[49]

WHEREFORE, the Petition is hereby **DENIED**. The Decision dated July 15, 2008 and Resolution dated May 24, 2010 of the Court of Appeals in CA-G.R. CV No. 84090 are **AFFIRMED**.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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48 RULES OF COURT, Rule 45, Sec. 6(a) and (b).

49 *Diesel Construction Co., Inc. v. UPSI Property Holdings, Inc.*, 572 Phil. 494, 511 (2008).

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

Please see Concurring Opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
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