

Republic of the Philippines
Department of Environment and Natural Resources
OFFICE OF THE SECRETARY
Visayas Avenue, Diliman, Quezon City

PRISCILLA F. JASMIN, ET AL.,
Represented by **LOTIE**
BLANDO,

Appellants,

-versus-

DENR Case No. 9929

RAYMUNDO M. RAMOS,
Appellee.

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DECISION

This resolves the Appeal¹ received by this Office on 02 June 2016, filed by Priscilla F. Jasmin, et al., represented by Lotie Blando (Jasmin et al.), through counsel, from the Decision² dated 26 November 2015 of the Regional Executive Director (RED), Department of Environment and Natural Resources (DENR) MIMAROPA Region, the dispositive portion of which reads:

WHEREFORE, after the lifting of the Memorandum dated May 28, 2015 of the Undersecretary for Field Operations, the following are hereby ordered:

1. The Homestead Applications of the Respondents over Lot Nos. 34127-A to F, K to L, Gss-04-26743 are hereby **REJECTED** and **DROPPED** from the records of this Office. Whatever amount paid on account thereof is forfeited in favor of the government; and
2. The PENRO/CENRO concerned is hereby directed to give **FURTHER DUE COURSE** to the public land applications of the Protestant.

SO ORDERED.

¹ Regional Folder, pp. 320-322.

² Attached in the DENR Folder.

Subject Property

The subject lands of the controversy are denominated as Lot Nos. 34127-A, 34127-B, 34127-C, 34127-D, 34127-E, 34127-F, 34127-K and 34127-L, all of Gss-04-26743, situated at Barangay Simpocan, Puerto Princesa City. (Subject lots)

Facts of the Case

The pertinent facts in the said Decision are quoted for ready reference, viz.:

Per Protest dated December 11, 2009, the Protestant alleged, among others: that he bought and acquired from the Almojuela family sometime in 2009, ten (10) lots denominated as follows: Lot Nos. 34127-A to F, K to L, Gss-04-26743 (Portions of Lot 80, Gss-04-000212) and Lot Nos. 78 and 79, both of Gss-04-000212; that at the time he acquired the aforesaid lots, the same had already been properly subdivided with approved survey plan in the names of the aforesaid claimants/applicants; that after acquisition of aforesaid lots, the Protestant filed application for titling, which was consequently processed by your honorable office. xxx ; that I further discovered that with the help of Edgardo Libiran of DENR CENRO Puerto Princesa as well as that of Ex-Barangay Captain Cesar Sibuyan of Brgy. Simpocan had, in collusion with each other made Lotie Blando believe that the lots she was buying were not the lots of Almojuela family as they have no claimants, when in truth and in fact, said lots were occupied and claimed by the Almojuelas, and this fact is known to both Edgardo Libiran and Ex-Barangay Captain Cesar Sibuyan, which they concealed from Lotie Blando; that what Lotie Blando was then buying is a timberland and is different from my lots, but perhaps due to the fact that Edgardo Libiran and Ex-Barangay Captain Cesar Sibuyan had received huge amount of money from Lotie Blando, they had provided to her instead the lot plan of the ten lots which I had already bought and acquired.

On the other hand, per *Verified Position Paper with Motion for Leave* dated May 6, 2013, Respondent stated, among others, that sometime in the year 2006, Lotie D. Blando approached Engineer Jonathan F. Gellez of the DENR-PENRO in Sta. Monica, Puerto Princesa City to ask for help how she could buy rights from the persons already in place on parcels of land

that were already open for alienation and eventually for application for patents; that proving further the fact that Protestee (herein Respondent) Lotie Blando acquired in 2006 rights over the big parcel of land under Survey Plan No. Gss-04-000212 lot that covered 60 hectares that later included the contested lots named in the protest of Major Raymundo M. Ramos, is the December 4, 2009 Letter of Lotie Blando filed before PENRO Juan C. Dela Cruz as a response to the answer of Engr. Gellez to the complaint of Lotie Blando against him; that the same December 4, 2009 letter attached thereto ledger pages showing the signatures of Sibuyan and Gellez acknowledging payments for the said big lot that were yet to be subdivided, including the payments for the subdivision of the same lot into smaller lots because the application for homestead patents should not be more than five (5) hectares; that the protest also stated that at the time the protestant acquired said lots, these same lots had already been properly subdivided with approved plan in the names of the said claimants or occupants but the same survey plan was not even presented; that Major Raymundo M. Ramos also said in his Protest that Lotie Blando believed that the lots she bought were not the lots of Almojuela family, without offering any evidence; that Major Raymundo M. Ramos also said in his Protest that despite that knowledge of Libiran and Sibuyan that the lots they sold to Lotie Blando were actually owned by Almojuela family, the two sold the same lots making Blando believe that the lots she bought were not lots of Almojuela family, also without offering any evidence to this claim; xxx

Proceedings Undertaken in the Regional Office

On 17 September 2012, an Order of Investigation³ was issued by the Provincial Environment and Natural Resources (PENR) Officer Juan C. dela Cruz, directing Land Management Officer III Hilario Regondola Jr. (LMO III Regondola) to conduct a formal investigation of the subject case.

An ocular inspection was set by LMO III Regondola on 29 November 2012, informing both parties of the said purpose. However, on 26 November 2012, an Omnibus Motion to Set Aside Motu Proprio Ocular Inspection and to Hear First Whether to Conduct The Same⁴ was filed by Jasmin et al., opposing the conduct

³ Regional Folder, pp. 129-130.

⁴ Regional Folder, pp. 22-25.

of an ocular inspection. The said motion was denied by LMO III Regondola.

In the Investigation Report,⁵ it was found out that Raymundo M. Ramos (Ramos) has long been in possession and occupation of the subject lots, long before Jasmin et al. applied and acquired the same. Photos which were taken in the subject lots show that the area is fully developed, planted with Casoy and Coconut trees and with nipa hut erected thereon, owned by the Almojuela family. LMO III Regondola noted that at the time of the acquisition of the subject lots, the same had already been subdivided with approved survey plan in the name of the claimants/occupants. After acquiring the said lots, Ramos filed his application for titling which were consequently processed by the Community Environmental and Natural Resources Office (CENRO) of Puerto Princesa. Moreover, it was found out that as shown in the approved map submitted by Jasmin et al., the subject lots in their application for titling are totally different and distinct from the lots applied for by Ramos.

LMO III Regondola recommended that the patent applications of Ramos, having the preferential right over the subject lots, be given further due course.

On 26 November 2015, the RED issued the assailed Decision which ruled in favor of Ramos and ordered that the Homestead Applications of Jasmin et al. over the subject lots be rejected and dropped from the records of this Office.

A Motion for Reconsideration⁶ dated 30 December 2015 was filed by Jasmin et al. seeking reversal of the said Decision. On 14 April 2016, the RED issued a Resolution which denied the Motion for Reconsideration.

Hence, this Appeal.

Proceedings Undertaken in the Central Office

In connection with the Appeal, the Director of the Legal Affairs Service, issued an Order⁷ dated 18 August 2018, directing Jasmin et al. to submit their Appeal Memorandum within 15 days from receipt of said Order, otherwise, their Appeal will be dismissed without further notice. Ramos was also ordered to submit his Answer within

⁵ Regional Folder, pp. 264-268.

⁶ Regional Folder, pp. 283-317.

⁷ DENR Folder, pp. 2-3.

15 days from receipt of Jasmin et al.'s Appeal Memorandum, otherwise, the case shall be resolved without the benefit of his Answer.

In addition, all parties were ordered to submit their draft Decisions within 30 days from receipt of said Order to facilitate the speedy disposition of the case.

On 20 September 2018, a Manifestation⁸ was filed by Ramos, stating that he has not received any Notice of Appeal, as well as the Appeal Memorandum of Jasmin et al. Also, Ramos manifested that he is still open to discuss the possibility of amicable settlement with Blando, the representative of Jasmin, et al. On 28 November 2018, Jasmin et al., filed a Manifestation⁹ relative to the Manifestation filed by Ramos, stating therein that she is also open to discuss the possibility of Compromise Agreement. However, after scrutinizing the records of the case, this Office has not yet received any communications from the parties regarding their previous manifestation as regards the Compromise Agreement.

Allegations of the Appellant

In their Appeal Memorandum¹⁰ dated 29 August 2018, Jasmin et al. alleged that Ramos is not the proper party, considering that he mentioned that the lots were applied for in the names of other persons, and that he never presented any evidence to show that rights over the subject lots were already given to him. Also, their application has long been approved prior to the filing of the protest of Ramos.

Issue

The material issue being presented for our resolution is who among the parties has preferential right over the subject land.

Ruling

After a careful review of the records of the case, this Office finds the Appeal bereft of merit and concurs with the findings of the RED that Ramos has the preferential right over the lot in question, having validly acquired the same from its previous owner, Almojuela

⁸ DENR Folder, pp. 65-66.

⁹ DENR Folder, pp. 57-62.

¹⁰ DENR Folder, pp. 17-54.

family, through purchase. Hence, by virtue of the said previous actual and physical possession of his predecessors-in-interest which, when tacked to his actual possession, would mean that he has complied with Section 44, Commonwealth Act (C.A.) 141, as amended by Republic Act No. 6940, which states:

Sec. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the effectivity of this amendatory Act, **has continuously occupied and cultivated, either by himself or through his predecessors-in-interest** a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares. (Emphasis supplied)

On the other hand, Jasmin et al., are tacking their rights from Oscar Delfin (Delfin) as appearing in the waiver of rights. However, the name of Delfin does not appear as a landowner in the Approved Subdivision Plan Csd-04-026743 in the name of Nilo Sabaulan, et al. To reiterate, only the names of Sabaulan and Almojuela appeared and had signed their conformity as landowners in the Plan. In the investigation report, Jasmin et al.'s subject lots in their application are totally different and distinct from that applied for by Ramos.

The foregoing findings of the RED must be afforded great weight and consideration. In the absence of any indication of arbitrariness or capriciousness on his part with respect to the pieces of evidence, it is well-settled in our jurisprudence that appellate bodies will not generally disturb the factual findings of lower entities.¹¹

In the case of *Spouses Mauricio Tabino and Leonila Dela Cruz-Tabino vs. Lazaro Tabino*¹², it was held that the findings of fact of the RED are conclusive, in the absence of contrary proof. The Supreme Court held in the above cited case that:

¹¹Lacuesta vs. Herrera, 62 SCRA 115, L-33646, January 28, 1975; Ortua vs. Singson Encarnacion, 49 Phil 440, G.R. No. L-39919, January 30, 1934.

¹² G.R. No. 196219, 30 July 2014.


Echoing the explanation of the private respondent DENR, citing the case of *Ortua vs. Encarnacion*, the findings of facts of the Director of Land (now the Regional Director) is conclusive in the absence of any showing that such decision was rendered in consequence of fraud, imposition or mistake, other than error of judgment in estimating the value or effect of evidence, regardless of whether or not it is consistent with the preponderance of evidence, so long as there is some evidence upon which the findings in question could be made.

WHEREFORE, the Appeal filed by Priscilla F. Jasmin, et al., represented by Lotie Blando, is **DISMISSED**.

SO ORDERED.

Quezon City, Philippines, 29 MAY 2023.

By Authority of the Secretary¹³:


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