

ALFONSO ACEDO, AND ESMEÑA AMBROS, PETITIONERS, VS. THE COURT OF APPEALS, TERESA SORIANO, UBALDO DURLAO, ALBERTO CRISOSTOMO, ROSITA ROLLUDA, FERMIN MARCOS, MARCELO MARCOS, AND VA...

G.R. No. L-24771. June 30, 1970

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal by certiorari from the decision of the Court of Appeals in CA-G.R. No. 28006-R entitled Teresa Soriano et al., plaintiffs-appellees, versus Alfonso Acedo, et al., defendants-appellants, and Fermin Marcos, et al., intervenors, affirming with modifications the decision the Court of First Instance of Nueva Vizcaya in its Civil Case No. 722 in favor of plaintiffs and intervenors, here-in private respondents, declaring them owners of the lands in question as against the defendants, herein petitioners.

As found by the Court of Appeals, the background facts are:

"On July 26, 1916, upon a homestead patent, Original Certificate of Title No. R-827 was issued in the name of Carolina Aggasid covering a parcel of land in Barrio Cuccub, Solano, Nueva Vizcaya.

"On April 29, 1925, Carolina Aggasid sold one-half pro-indiviso portion of the land to Tomas Marcos. That sale was recorded at the back of Carolina Aggasid's O.C.T. No. R-827.

"In the cadastral proceedings, that land was broken into two: Lot No. 984 and Lot No. 985.

"Carolina Aggasid claimed Lot 984. The court, on April 15, 1932, ordered the registration of said lot in the name of Carolina Aggasid and the cancellation of Original Certificate of Title No. R-827.

"On May 23, 1952, Victoria Paculla, sole heir of Carolina Aggasid, in an 'Affidavit of Extrajudicial Settlement', adjudicated unto herself the "entire one-half (1/2) unsold portion' of Carolina's land as covered by Original Certificate of Title No. R-827. That affidavit, too, was annotated at the back of Original Certificate of Title No. R-827.

"On May 30, 1952, Victoria Paculla sold to her son Alberto Crisostomo (Married to Rosita Rolluda) the said portion she adjudicated to herself. Similarly, this was entered at the back of Title No. R-827.

"On June 2, 1952, the spouses Alberto Crisostomo and Rosita Rolluda sold the same portion of land to Teresa Soriano, married to Ubaldo Dumlao.

"Lot 985 was listed in a cadastral case different from that which covered Lot 984. No claim thereto was filed. Hence, it was declared public land.

"One Trinidad Agsunod obtained a homestead patent thereto - Lot 985 - and was issued Original Certificate of Title No. 420 on January 26, 1932.

"On April 12, 1937, Trinidad Agsunod sold the lot to the spouses Alfonso Ace-do and Esmeña Ambros. The deed of sale was first annotated on Trinidad Agsunod's Title No. 420. Later, on September 19, 1940, Title No. 420 was cancelled and Transfer Certificate of Title No. 3788 was issued to the vendees Acedo and Ambros.

"Then came the suit filed by Teresa Soriano and others against the spouses Alfonso Acedo and Esmeña Ambros for the recovery of ownership and possession of Lot 985 and damages. Tomas Marcos' heirs intervened and joined hands with plaintiffs.

"The judgment below reads:

'IN VIEW OF THE FOREGOING, de-cision is hereby rendered, declar-ing the plaintiffs Ubaldo Dumlao and Teresa Soriano, owners with right to possess, the one-half western portion of LOT No. 984 of the Bayombong Cadastre, and the intervenors Fermin Marcos, Marce-lo Marcos and Valentin Marquez, the latter in his own behalf and in representation of his children, Ciriaco, Victoria, Restituta, Nestor, Agripino and Felicidad, all surnamed Marquez, owners with right to possess the other one-half (1/2) eastern portion of said Lot No. 984; declaring the plain-tiffs Alberto Crisostomo and Rosi-ta Rolluda owners with right to possess the western one-half(1/2) portion of Lot No. 985 of the Ba-yombong Cadastre, and the in-tervenors Fermin Marcos, Marcelo Marcos and Valentin Marquez, the latter in his own behalf and in re-presentation of his children, Ci-riaco, Victoria, Restituta, Nestor, Agripino and Felicidad, all surnamed Marquez, owners with right to possess the other eastern one-half (1/2) portion of said Lot No. 985; and further ordering the defendants Alfonso Acedo and Esmeña Ambros to surrender to the plaintiffs Alberto Crisostomo and Rosita Rolluda and the intervenors, Fermin Marcos, Mar-celo Marcos and Valentin Marquez, the latter in his own behalf and in representation of his children, Ci-riaco, Victoria, Restituta, Nestor, Agripino and Felicidad, all sur-named Marquez, the possession of Lot No. 985 of the Bayombong Cadas-tre, in the proportion already stated; and ordering, lastly, the cancellation of the owner's dupli-cate of Original Certificate of Title No. 420 in the name of Trinidad Agsunod (Exhs. 10 and 3-Inter-venors), and the owner's duplicate of Transfer Certificate of Title No. 3788 in the name of the herein de-fendants, spouses Alfonso Acedo and Esmeña Ambros (Exhs. 13 and 2-Inter-venors), together with their corres-ponding originals existing in the office of the Register of Deeds for Nueva Vizcaya, upon payment of the legal fees. And without special pronouncement as to costs.

'SO ORDERED.'

"Defendants appealed."

On the basis of these facts, the Court of Appeals rendered the following judgment:

"Lot No. 985 was part of a homestead previously placed under the operation of the Torrens system. Therefore, the sub-sequent adjudication of said lot in the cadastral proceedings is null and void. Title No. 420 and Title No. 3788 issued in lieu thereof, accordingly, must be cancel-led; defendants acquired nothing thereby.

"Normally, an appellate court does not give relief to appellees. Of course, this is understood as against the appellants. Reason therefor is that a party who does not appeal must be deemed, for legal pur-poses, to have remained satisfied with the decision below.

"But the situation here involved stands upon a different plane. Appellees them-selves have asked this Court in their brief that, for purposes of rectifying an obvious error in the decision, the 1/2 share of Lot 985 be adjudicated - not to the spouses Alberto Crisostomo and Rosita Rolluda, as was done below - but to the other plaintiffs Teresa Soriano and Ubaldo Dumlao, the real owners entitled to the possession thereof. Peace of mind amongst them must have com-pelled appellees to do so.

"Not that appellees are without reason. The recorded evidence, the deed of sale, Exhibit C, as to which

appellees are agreed, establishes the fact that the other half [] i.e., the western half [] of Lot 985 (after deducting the half sold to Marcos) had already been sold by plaintiffs spouses Alberto Crisostomo and Rosita Rolluda to their co-plaintiffs Teresa Soriano and Ubaldo Dumlao.

"Accordingly, the dispositive part of the decision is hereby amended by (1) declaring that plaintiffs Ubaldo Dumlao and Teresa Soriano are the owners with right to possess the one-half (1/2) portion of Lot No. 985 of the Bayombong Cadastre aforesaid, and (2) ordering defendants Alfonso Acedo and Esmeña Ambros to surrender to said plaintiff and the intervenors the possession of the entire Lot No. 985.

"Modified as just indicated, the judgment appealed from is hereby affirmed. Costs against appellants."

A motion for reconsideration of this decision was filed on the following grounds:

"1. That the decision is not only not supported by the facts and evidence of record, but also that it is contrary to such facts and evidence; and

"2. That the decision is not only not in consonance with, but also contrary to, law and jurisprudence on the matter, particularly, the protection of the rights of an innocent purchaser for value, which is the case of the defendants-appellants."

but said motion was denied, hence this appeal.

Petitioners claim that:

"I. The Court of Appeals erred in not finding that notwithstanding her free patent certificate of title, Exhibit A, Carolina Aggasid could not be deemed as to have been the owner of that portion embraced in said free patent certificate of title, which, during the cadastral survey, was designated as Lot No. 985, because she has never claimed, nor possessed, nor occupied, the same, either by herself or through her predecessors in interest, since July 4, 1907, or prior thereto, or even at anytime thereafter;

"II. The Court of Appeals erred in not finding that Carolina Aggasid, by her inaction and neglect for a period of 23 years, was guilty of laches; and

"III. The Court of Appeals erred in not finding that the petitioners herein, Alfonso Acedo and Esmeña Ambros, are innocent purchasers for value and in good faith, and their rights as such should be protected."

None of these assigned errors can be sustained.

This is a clear case of a second Torrens title having been issued covering a land already previously registered, being part of a duly registered bigger land. It is undisputed that Transfer Certificate of Title No. 3788 in the name of herein petitioners was derived from Original Certificate of Title No. 420 in the name of their predecessor-in-interest Trinidad Agsunod who, in turn, acquired her title by virtue of a homestead patent obtained by her on January 28, 1932, and it is admitted that at that time, the land covered by said patent had already been registered, as part of a bigger registered parcel, as early as July 26, 1916 in the name of Carolina Aggasid from whom private respondents herein have either successively or separately secured their respective interests. The fact that Trinidad Agsunod was able to obtain her homestead patent in 1932 because the land in question was declared public in a cadastral proceeding in which the holder of the first title did not file any opposition does not improve in any manner the position of petitioners. With or without such opposition, the cadastral court had absolutely no jurisdiction to declare as public Aggasid's land which had been previously registered already under the Torrens System. This is not only a definitely settled question in this Court,[1] it is indeed good law; it is a direct consequence of the indefeasibility of a torrens title.

Petitioners contend that the earlier title of Carolina Aggasid was void inasmuch as she had no right to any

homestead patent, it having been proven at the trial, and the trial court so held, that neither Aggasid nor anyone on her behalf has possessed the land in dispute since earlier than 1907. To begin with, the decision of the Court of Appeals now before Us contains no such finding and We are without authority to base Our decision hereof directly on findings of fact of the trial court this case having been appealed on issues of fact and law to the said appellate court. Even assuming, however, that what petitioners claim is true, that is, that nei-ther Aggasid nor any of her successors-in-interest had ever possessed the land here in dispute, the very case cited by them that of Zarate v. Director of Lands, 34 Phil. 418, is clear authority for Us to overrule their contention. As quoted in their brief, We held therein that "if, within the (that) period of one year from that date, the adverse claimant does not seek to con-test on the ground of fraud the right of the patentee, he is forever barred from questioning the rights of the patentee, as the title issued by virtue of the patent duly registered shall then have acquired all the charac-teristics that determine the finality and indefeasibility of a Torrens title". Incidentally, this doctrine cannot apply to private respondents in so far as the homestead patent of Agsunod is concerned for the simple reason that said patent is null and void, the land covered by it having been previously registered already as private land in the name of Aggasid.

Neither is petitioners' pose that they are purcha-sers in good faith tenable. It is true they bought the land in reliance of Original Certificate of Title No. 420 of Trinidad Agsunod. It may also be true they part-ed with valuable consideration. The sad fact, however, is that the said Torrens title of Agsunod is null and void and such nullity, it is settled, affects even bona fide purchasers for value. In Legarda v. Saleeby, 31 Phil. 590, this Court held:

"We have laid the rule that where two certificates of title are issued to different persons covering the same land in whole or in part, the earlier in date must prevail as bet-ween original parties and in case of successive registrations where more than one certificate is issued over the land, the person holding under the prior certificate is entitled to the land as against the person who rely on the second certificate. The purchaser from the owner of the lat-ter certificate and his successors, should resort to his vendor for red-ress, rather than molest the holder of the first certificate and his suc-cessors, who should be permitted to rest secure in their title."

This doctrine has been followed in subsequent cases[2] and We see no reason at all for Us to change it now.

As they did in their answer in the trial court, as well as in their brief in the Court of Appeals, petition-ers are raising here again the issue of laches. We note, however, that inspite of the fact that the Court of Appeals did not pass on the said issue, in their motion for reconsideration in that court, petitioners seemingly abandoned the same, since no mention of it was made there-in. As already stated earlier, the only points pressed upon in said motion were: (1) that the earlier title and even the homestead patent of Aggasid were void for lack of the requisite actual possession of the land in ques-tion; and (2) that petitioners are bona fide purchasers for value. Accordingly, We do not feel We can rule on the said issue in this appeal.

In any event, We do not believe that the precedent in the cited case of Lucas v. Gamponia, 100 Phil. 277, nor the later case of Miguel v. Catalino, 26 SCRA 234, wherein Mr. Justice J.B.L. Reyes reiterated and further elucidated on the doctrine in Gamponia, may be applied to private respondents in the present case. There is one vital point of difference between the situation of the private respondents here, on the one hand, and the defend-ants in the two mentioned cases, on the other. In those cases, the defendants, either by themselves or their predecessors-in-interest, had acquired the lands therein disputed from the original title holders, and although such acquisitions were found to be defective and legally unenforceable, the said title holders allowed the said defendants to take possession of and continue possess-ing the said lands and otherwise perform other acts of dominion in regard thereto, without questioning their right to do so for unusually extended periods of time. Thus,

in the Catalino case, Bacaquio, the original owner of the land in controversy sold the same to Catalino Agyapao, father and successional predecessor-in-interest of plaintiffs, but said sale which took place in 1928 was technically invalid for lack of approval by the Governor-General which under the law then in force was indispensable for such transactions of non-Christians. In spite of said invalidity, however, the vendee was allowed by the vendor to take possession of and enjoy the property from 1928 to 1943 and even the heirs of Bacaquio, the plaintiffs, did not disturb the buyer nor his successors-in-interest, the defendants, nor was the ownership of said defendants or their predecessor-in-interest ever questioned before 1962, or for a period of practically thirty-five years. Under these facts, this Court held:

"Since the 1928 sale is technically invalid, Bacaquio remained, in law, the owner of the land until his death in 1943, when his title passed on, by the law on succession, to his heirs, the plaintiffs-appellants.

"Notwithstanding the errors afore-mentioned in the appealed decision, we are of the opinion that the judgment in favor of defendant-appellee Floren-do Catalino must be sustained. For despite the invalidity of his sale to Catalino Agyapao, father of defendant-appellee, the vendor Bacaquio suffered the latter to enter, possess and enjoy the land in question without protest, from 1928 to 1943, when the seller died; and the appellants, in turn, while succeeding the deceased, also remained inactive, without taking any step to vindicate the lot from 1944 to 1962, when the present suit was commenced in court. Even granting appellants' proposition that no prescription lies against their father's recorded title, their passivity and inaction for more than 34 years (1928-1962) justifies the defendant-appellee in setting up the equitable defense of laches in his own behalf. As a result, the action of plaintiffs-appellants must be considered barred and the court below correctly so held. Courts can not look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort and expense in cultivating the land, paying taxes and making improvements thereon for 30 long years only to spring, from ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at his expense. x x x"

Similarly, in the case of Gamponia, the original landowner Domingo Mejia, shortly after the issuance of the Free Patent No. 3699 to his land on March 13, 1916, sold the same to one Zacarias Ciscar - in violation of Section 35 of the Public Land Act - on March 24, 1916. In spite of the sale, the corresponding certificate of title was issued in the name of Domingo Mejia when the patent referred to was registered with the Office of the Register of Deeds of Nueva Vizcaya on July 26, 1916. Notwithstanding the invalidity of the sale, however, Domingo Mejia allowed Ciscar to take immediate possession and enjoyment of the property. Pedro Mejia, the brother of Domingo Mejia, who after the latter's death, succeeded him, also did nothing to recover the land during all the time that it was possessed and enjoyed by the original purchaser Ciscar, as well as said vendee's successors-in-interest, Roque Sanchez and later Andres Gamponia. It was only after the above named possessors of the property had continuously and successively enjoyed it for a period of more than 37 years that Pedro Mejia's daughter Concordia Mejia de Lucas tried to recover possession and ownership of the land sold by Domingo Mejia relying on the strength of the certificate of title still in the name of Domingo Mejia. In these circumstances, this Court ruled:

"Upon a careful consideration of the facts and circumstances, we are constrained to find, however, that while no legal defense to the action lies, an equitable one lies in favor of the defendant and that is, the equitable defense of laches. We hold that the defense of prescription or adverse possession in derogation of the title of the registered owner Domingo Mejia does not lie, but that of the equitable defense of laches. Otherwise stated, we hold that while defendant may not be considered as having acquired title by virtue of his and his predecessors' long continued possession for 37 years, the original owner's right to recover back the possession of the property and the title there-to from the defendant has, by the long period of 37 years and by patentee's inaction and neglect, been converted into a stale demand."

On the other hand, in the case at bar, it does not appear that either Aggasid, the original owner of the disputed

land or any of her successors-in-interest has ever conveyed to or otherwise disposed of in favor of Agsunod or her successors-in-interest, the herein petitioners, any part of the land herein involved. In the record of this case, the only transfer of said land that appears is that of Aggasid to Tomas Marcos, the predecessor-in-interest of intervenors-respondents, involving one-half thereof pro-indiviso. Clearly, therefore, the theory of laches being urged by petitioners is not based on any positive act of the respondents or their predecessors which could have induced the former to believe that they would no longer claim ownership of the land in issue as against petitioners. The mere failure of private respondents to file oppositions in the cadastral proceedings is not inconsistent with their indefeasible rights under their registered title. In other words, in the cases of Catalino and Gamponia wherein this Court sanctioned the defense of laches even as against the holder of a Torrens title, present always was one element, not found in the case at bar, namely, that of "conduct on the part of defendant or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complainant seeks a remedy." This conduct consisted not only of inactivity or silence, which are negative in character, in the face of adverse possession and other assertions of ownership by the other party but of the positive act of transferring title to said other party, albeit in an illegal manner, and then doing nothing for more than thirty years to disengage themselves from such illegal transfer, thereby making the transferees believe that such illegality was being impliedly, if not actually, waived. Even if such waiver may be, in law, ineffective by itself alone, to create any right in favor of the vendee, if the failure of the title holder to act contrarywise for such a long time is added to it, a situation is created which in equity renders any further attempt of the holder of the title to vindicate his rights under it too stale to be judicially cognizable. Indeed, it may be said that in order to defeat a Torrens title, the laches must be such as to be somehow in the nature of estoppel in pais.

All the foregoing notwithstanding, We do not consider it in order to just affirm the decision of the Court of Appeals as is, without any explanation. We note that in its dispositive portion, said court not only declared the respondents Ubaldo Dumlao and Teresa Soriano owners of one-half portion of Lot No. 985 of the Bayombong Cadastre but also ordered petitioners to surrender to said respondents and the intervenors-respondents, presumably the successors-in-interests of Tomas Marcos, the possession of the entire Lot No. 985. These dispositions seem to be inconsistent with said court's own findings which in effect mean that what remained as her one-half share of the land originally covered by Original Certificate of Title No. R-827, after she sold the other half, pro-indiviso, to Tomas Marcos in 1925, was Lot No. 984 which she precisely claimed in the cadastral proceedings and of which she was again declared owner by the cadastral court. Consequently, what would appear to have been sold to Tomas Marcos was Lot 985 and, therefore, the intervenors-respondents would also appear to be entitled to the whole of Lot 985, thus leaving to plaintiffs-respondents Dumlao and Soriano the whole of Lot 984 instead of one-half of each of the said two lots going to the plaintiffs-respondents and the other one-half of each of them to the intervenors-respondents, as decided, in effect, by the Court of Appeals.

To straighten out this apparent confusion, We have found it necessary to go beyond the decision, to the record on appeal and the briefs of the parties filed with the appellate court. In the decision of the trial court, an indication of the cause of the confusion appears in the following discussion:

"The plaintiffs claim as stated above that the parcel of land covered by Original Certificate of Title No. R-827 (Exh. A) is equivalent to Lots Nos. 984 and 985 of the Cadastral Survey of Bayombong (certificate issued by the Chief of the General Land Registration Office, dated November 20, 1952, Exhs. D and 4-Intervenor). However, the plaintiffs Ubaldo Dumlao and Teresa Soriano are only in possession of one-half (1/2, of Lot No. 984 (western side), and the intervenors, Fermin Marcos, Marcelo Marcos and Valentin Marquez, in his own behalf and in representation of his children, Ciriaco, Victoria, Restituta, Nestor, Agripino and Felicidad, all surnamed Marquez are in possession of the other half of said Lot No. 984 (eastern side), as owners, it being a portion of what their predecessor in interest, the late Tomas Marcos had purchased from the original registered owner Carolina Aggasid, whose title was annotated at the back of Original Certificate of Title No.

R-827 Exh. A, as per entry No. 274 (Exh. I-Intervenor). (See Exh. 5-Intervenor and par. 3 of the second amended complaint.)

"Plaintiffs-spouses Ubaldo Dum-lao and Teresa Soriano are claim-ing one-half (1/2) of Lot No. 985 (western side) while the intervenors Fermin Marcos-et al., are claiming the other one-half (1/2) portion (eastern side) of said Lot No. 985.

"The defendants Alfonso Acedo and Esmeña Ambros on their part aver that they are in the actual possess-ion of Lot No. 985 ever since they purchased it from Trinidad Agsunod on April 12, 1937 in a deed of abso-lute sale (Exh. 12), which was duly inscribed in the office of the Re-gister of Deeds of Nueva Vizcaya, causing thereby the issuance in their favor of Transfer Certi-ficate of Title No. 3788 (Exhs. 13 and 2-Intervenor) on September 19, 1940; that before the sale in favor of the spouses Alfonso Acedo and Esmeña Ambros of Lot No. 985, the vendor Trinidad Agsunod had been in possession as owner, as shown by homestead patent No. 17935, issued on January 9, 1932 and transcribed as Original Certificate of Title No. 420 (Exhs. 10 and 3-Intervenor) in the office of the Register of Deeds of Nueva Vizcaya on January 28, 1932; and that said defendants Alfonso Acedo and Esmena Ambros as well as the vendor Trinidad Agsunod had declared Lot No. 985 for taxa-tion purposes and paid the taxes thereon from 1930 up to the present (Exhs. 14, 14-a to 14-c; 15, 15-a to 15-f; 17 and 17-a to 17-e).

"It has been agreed by the parties that the plaintiffs Ubaldo Dumlao and Teresa Soriano never possessed Lot No. 985 since their acquisition of the land from Alberto Crisostomo in Exhi-bit C. It has been admitted by plain-tiff Ubaldo Dumlao that when he attemp-ted to possess the land which he and his wife Teresa Soriano bought from Alberto Crisostomo on June 2, 1952, he learned that defendant Alfonso Acedo was in possession of Lot No. 985. It has been likewise agreed by the parties that defendant Alfonso Acedo has been farming Lot No. 985; that he has been in possession thereof and has harvested all the crops raised thereon for his own benefit. It is shown by the evidence that neither the plaintiffs Ubaldo Dumlao and Teresa Soriano nor their predecessors in in-terest Alberto Crisostomo and Rosita Rolluda, nor Victoria Pacula and Caro-lina Aggasid had ever possessed Lot No. 985 and that said Lot No. 985 has always been in the possession of Tri-nidad Agsunod and later on of the de-fendants Alfonso Acedo and Esmeña Am-bros up to the present.

"The plaintiffs and the interve-nors contend that Original Certifi-cate of Title No. 420, in the name Trinidad Agsunod (Exhs. 10 and 3-Intervenor), issued on January 28, 1932, as well as the Transfer Certificate of Title No. 3788, in the name of the spouses Alfonso Acedo and Esmeña Ambros (Exhs. 13 and 2-Intervenor), which co-ver Lot No. 985, are null and void, on the ground that said Lot No. 985 is embraced in a bigger parcel of land covered by a previous title, which is Original Certificate of Title No. R--827 (Exh. A), in the name of Carolina Aggasid, issued on July 26, 1916.

"The Court has as already stated arrived at the conclusion that what was sold by plaintiffs Alberto Crisostomo and Rosita Rolluda to their co-plaintiffs Ubaldo Dumlao and Teresa Soriano, was Lot No. 984. Considering that Victo-ria Paculla, the registered owner of the remaining one-half (1/2) portion of the parcel of land described in Original Certificate of Title No. R--827 (Exh. A) as per Entry No. 15848 (Exh. A-2) at the back thereof, had sold the said remaining undisposed one-half (1/2) portion to Alberto Crisostomo on May 30, 1952, in a deed of absolute sale (Exhs. B and 5), the lat-ter is entitled to claim one-half (1/2) of Lot No. 985, which is em-braced in the parcel of land described in Original Certificate of Title No. R-827 (Exh. A). Likewise, the inter-venors Fermin Marcos, Marcelo Marcos and Valentin Marquez, the latter in his own behalf and in representation of his children, Ciriaco, Victoria, Restituta, Nestor, Agripino and Feli-cidad, all surnamed Marquez, are also entitled to claim the other half of Lot No. 985, which formed part of the undivided one-half portion which their predecessor in interest Tomas Marcos, had purchased from the original regis-tered owner Carolina Aggasid, as per Entry No. 274 (Exh. I-Intervenor) at the back of Original Certificate of Title No. R-827 (Exh. A)."

On the other hand, in petitioners' brief as appel-lants in the Court of Appeals, the first and second assignments of

error and their corresponding discussion read thus:

"FIRST ASSIGNMENT OF ERROR

"THE TRIAL COURT A QUO ERRED IN 'DE-CLARING THE PLAINTIFFS ALBERTO CRISOS-TOMO AND ROSITA ROLLUDA OWNERS WITH RIGHT TO POSSESS THE WESTERN ONE-HALF (1/2) PORTION OF LOT NO. 985 OF THE BAYOMBONG CADASTRE, AND THE INTERVENORS FERMIN MARCOS, MARCELO MARCOS AND VA-LENTIN MARQUEZ, THE LATTER IN HIS OWN BEHALF AND IN REPRESENTATION OF HIS CHILDREN, CIRIACO, VICTORIA, RESTITUTA, NESTOR, AGRIPINO AND FELICIDAD, ALL SURNAMED MARQUEZ OWNERS WITH RIGHT TO POSSESS THE OTHER EASTERN ONE-HALF (1/2) PORTION OF SAID LOT NO. 985".

"SECOND ASSIGNMENT OF ERROR

"THE TRIAL COURT A QUO ERRED IN 'ORDERING THE DEFENDANTS ALFONSO ACEDO AND ESMEÑA AMBROS TO SURRENDER TO THE PLAINTIFFS ALBERTO CRISOSTOMO AND RO-SITA ROLLUDA AND THE INTERVENORS, FER-MIN MARCOS, MARCELO MARCOS AND VALEN-TIN MARQUEZ, THE LATTER IN HIS OWN BE-HALF AND IN REPRESENTATION OF HIS CHILDREN, CIRIACO, VICTORIA, RESTITUTA, NESTOR, AGRIPINO AND FELICIDAD, ALL SURNAMED MARQUEZ, THE POSSESSION OF LOT NO. 985 OF THE BAYOMBONG CADASTRE IN THE PROPORTION ALREADY STATED:'

"Being closely related with one another - the second being the necessary effect of the first - we beg leave of this Honorable Court of Appeals to dis-cuss these two assignments of error to-gether in order to avoid repetition and for the sake of brevity.

"The plaintiffs Alberto Crisostomo and Rosita Rolluda based their present action upon their deed of sale (Exhibit B which is also marked as Exhibit 5). The intervenors also based their inter- vention upon the recorded lien or gra-vamen in favor of their predecessor-in--interest, Tomas Marcos (Exhibit 1-Inter-venors), which is also embodied in the decision of the Cadastral Court dated April 15, 1932 (Exhibit 1 which is also marked as Exhibit 6-Intervenors).

"While the deed of sale (Exhs. B and/or 5) in favor of Alberto Crisostomo and Rosita Rolluda does not specifically state the land sold thereby any clearer or more specific than stating 'the remain-ing undisposed half-portion' of the par-cel of land described in the deed of sale, yet, in the affidavit (Exhibit 2) of Al-berto Crisostomo himself, particularly paragraph 3 thereof, he stated 'that in truth and in fact, Cadastral Lot No. 984 x x x which was claimed by my father, Domingo Crisostomo, is the same land as that unsold portion of the land covered by Original Certificate of Title No, R-827 (Free Patent No. 3983) in the name of Carolina Aggasid, which was extrajudicially adjudicated in favor of Vic-toria Pacula as the nearest forced heir, and which the latter conveyed, to me for valuable consideration as evidenced by deed of conveyance duly registered and annotated on the me-morandum page of Original Certifi-cate of Title No. R-827 of the Land Records of Nueva Vizcaya aforesaid' (Exhibit 2-a). Likewise, Victoria -Pacula, the vendor of Alberto Crisos-tomo, in her affidavit (Exhibit 4) particularly in paragraph 3 thereof, she stated 'that in truth and in fact, Cadastral Lot No. 984 x x x which was continuously cultivated by, my said late husband (Domingo Crisos-tomo) is the same as that unsold portion of the land covered by Original Certificate of Title No. R-827 (Free Patent No. 3983 in the name Carolina Aggasid aforesaid' (Exhibit 4-a). What, therefore, was a vague description or identity of the land sold as 'the remaining undisposed half-portion' in the deed of sale (Exhibit B and/or 5) was made clear, specific and definite by the affida-vits of the vendor (Exhs. 4 and 4-a) and of the vendee (Exhs. 2 and 2-a) to be no other than Cadastral Lot No. 984.

"The deed of sale (Exhibits B and/or 5) was registered in the Office of the Register of Deeds for Nueva Vizcaya, and annotated on the memorandum page of Original Certificate of Title No. R-827 (Exhibit A) as

Entry No. 15911 (Exhibit A-1). Later on, the plaintiffs-appellees, Alberto Crisos-tomo and Rosita Rolluda sold the parcel of land which they bought from Victoria Pacula by their deed of sale (Exhibits B and/or 5) which was registered and an-notated on the back of Original of Title No. R-827 (Exhibit A) under Entry No. 15911 (Exhibit A-1) to their co-plaintiffs, Teresa Soriano and Ubaldo Dumlao. In the deed of sale (Exh. 6 which is also marked as Exh. C) which the plaintiffs-appellees, Alberto Crisostomo and Rosita Rolluda exe-cuted in favor of their co-plaintiffs Te-resa Soriano and Ubaldo Dumlao there is no mistake as to the identity of the land sold to be Lot No. 984 because it is so stated in the said deed of sale in the following tenor: '(This is the same land referred to as Lot No. 984 x x x formerly claimed, for and in behalf of the true owner, Carolina Aggasid, by Domingo Crisostomo, deceased. x x x.)' (See portion of Exhibits and/or C, underlined with red pencil). From these series of transactions it is very clear that whatever land the plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda bought from Victoria Pacula by means of Exhs. B and/or 5, they have sold the same to their co-plaintiffs Teresa Soriano and Ubaldo Dumlao by means of Exhibits 6 and/or C.

"There is no evidence of record of any claim of ownership, either by purchase or otherwise, of the plaintiffs-appellees, Al-berto Crisostomo and Rosita Rolluda for and over Lot No. 985 or any portion thereof. It could not be said that the said plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda are the owners of the western one-half portion of Lot No. 985, as the trial court erroneously declared, by virtue of their deed of sale (Exhibits B and/or 5) be-cause their deed of sale, as we have shown above, specifically refers to Lot 984. More-over, they have already sold to their co-plaintiffs Teresa Soriano and Ubaldo Dumlao all what they have bought from Victoria Pacula. Consequently, said plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda could no longer have any interest, ownership or otherwise, to and over any portion of the land embraced in Original Certificate of Title No. R-827 (Exhibit A), much less, to and over Lot 985 or any portion thereof.

"In the case of the intervenors-appel-lees, we have already stated at the begin-ning of this argument that they based their intervention upon the recorded lien or gravamen in favor of Tomas Marcos, their predecessor-in-interest (Exhibit 1-Inter-venors) which lien or gravamen is also embodied in the decision of the Cadastral Court dated April 15, 1932 (Exhibits 1 and/or 6-Intervenors). While as recorded or annotated on the back of Original Certificate of Title No. R-827 (Exhibit A) as Entry No. 274 (Exhibit 1-Intervenors), the lien or gravamen in favor of Tomas Marcos, the pre-decessor-in-interest of the herein interve-nors-appellees, does not relate to any spe-cific or particular portion of the land embraced in Original Certificate of Title No. R-827 (Exhibit A), yet, when the Cadas-tral Court passed judgment over Lot No. 984 which it found was embraced by Original Cer-tificate of Title No. R-827, it also had the occasion to pass judgment over the recorded or annotated lien or gravamen in favor of Tomas Marcos, so that in the decision (Ex-hibit 1 and/or 6-Intervenors) which the Ca-dastral Court rendered over Lot No. 984, it is therein stated:

'EN SU VIRTUD, se ordena la cance-lacion del Certificado de Titulo No. R-827, Patent No. 3983, y, en su lugar, expidase el titulo del catastro a nombre de la referida Carolina Aggasid, sujeto desde luego al gravamen a favor de Tomas Marcos tal Como aparece al respaldo de dicho titulo debidamente inscrito en el Registro de la Propiedad de esta Provincia.' (Dispositive portion of the Decision, Exhibit 1 and/or 6 In-tervenors)

So what has been a vague identity of the land subjected to the lien or gravamen in favor of Tomas Marcos as recorded, has been made clear, specific, and definite in the decision of the Cadastral Court (Exhibit 1 and/or 6-Intervenors) as to be Lot No. 984 and no other else.

"As in the case of the plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda, there is no evidence of record of any claim of owner-ship or otherwise, either by purchase or by any other means, of the intervenors-appellees for and over Lot No. 985 or particularly the western portion thereof. It could not be said that the intervenors-appellees are the owners of the eastern one-half portion of Lot No. 985, as the trial court erroneously declared, by virtue of the recorded lien or gravamen in favor of Tomas Marcos (Exh. 1-Intervenors) who is their predecessor-in-interest because such recorded lien or gravamen refers to Lot No. 984 as found and declared by the Cadastral Court (Exhi-bit 1 and/or 6-Intervenors). Consequently, the herein

intervenors-appellees do not have any interest, ownership or otherwise, to and over the eastern one-half portion of Lot No. 985.

"As has been correctly found by the trial court, 'neither the plaintiffs Ubaldo Dumlao and Teresa Soriano, nor their predecessors-in-interest Alberto Crisostomo and Rosita Rolluda, nor Victoria Pacula and Carolina Aggasid had ever possessed Lot No. 985, and that said Lot No. 985 had always been in the possession of Trinidad Agsunod and later on of the defendants Alfonso Acedo and Esmeña Ambros up to the present' (Decision, Records, p. 29; 38-39). On the other hand, the evidence of records shows that Carolina Aggasid, and later on, her daughter Victoria Pacula, then later on the vendees, the plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda, and then lastly, the plaintiffs Teresa Soriano and Ubaldo Dumlao, have been in possession successively of the western one-half portion of Lot No. 984; and that similarly, Tomas Marcos, and later on his successors-in-interest the herein intervenors-appellees have been in possession successively of the eastern one-half portion of Lot No. 984 only. If the overt act of possession is a positive way of asserting or exercising the right of ownership, then, we respectfully submit, that Carolina Aggasid, and later on, Victoria Pacula, and still later on, the plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda asserted and/or exercised their right of ownership over the western one-half portion of Lot No. 984 only; and Tomas Marcos, then later, the intervenors-appellees asserted and/or exercised their right of ownership of the eastern one-half portion of Lot No. 984 only.

"As we have shown above that the plaintiffs-appellees Alberto Crisostomo and Rosita Rolluda, and the intervenors-appellees, have no interest, ownership or otherwise, to and over Lot No. 985, the trial court, therefore, has flagrantly committed the second error assigned."

The net result is that whereas, the trial court and the Court of Appeals, the latter impliedly, both found that what was actually sold by Aggasid to Tomas Marcos was one-half of Lot 984 and one-half of Lot 985, what was claimed by Aggasid in the cadastral proceedings and actually adjudicated to her by the cadastral court was Lot 984, said adjudication being made subject, as stated in the above quotation from petitioners' brief 'desde luego al gravamen a favor de Tomas Marcos, tal como aparece al respaldo de dicho titulo debidamente inscrito en el Registro de la Propiedad de esta Provincia' and Lot No. 985 was declared by the same cadastral court to be land of the public domain. In other words, the cadastral court found that what Aggasid sold to Tomas Marcos was only a portion, if one-half, of Lot No. 984. Indeed, the findings of the trial court as to the parts of the lands here in question actually possessed respectively by the petitioners and respondents, would seem to support such conclusion.

All these are, however, out of the question here. We have no authority to modify the findings of fact of the Court of Appeals; much less may we refer for any holding on any argument or statement of fact of petitioners in their brief filed with said court. We have brought out these matters only to explain and clarify the apparent confusion arising from what appear to be inconsistent portions of the decision of the Court of Appeals. Besides, in their brief, filed with this Court, petitioners expressly admit that in the cadastral survey, the land covered by the free patent certificate of title No. R-827 "was broken ... into two lots, namely Lot 984 and Lot 985". With this admission, it is of no consequence to petitioners how the lands herein involved are divided between respondents-plaintiffs and respondents-intervenors, there being no controversy as between them. As far as petitioners are concerned, since we are holding that the original patent title of Aggasid must prevail over the later patent and title issued in favor of Agsunod, they have no interest nor right of any kind on said lands; they must surrender possession, the possession of Lot 985, as directed by the Court of Appeals, the one-half western portion thereof to plaintiffs-respondents and the other eastern half to the intervenors-respondents. How these respondents will subsequently adjust the partition of the whole land previously covered by Original Certificate of Title No. R-827 to reconcile with Aggasid's claim over Lot 984 in the cadastral court, thus implying that the portion she had sold to Tomas Marcos was Lot 985, is a problem exclusively for respondents to settle among themselves. As the

record before Us stands, We cannot make any specific pronouncements on the matter.

IN VIEW OF ALL THE FOREGOING, We have no alternative but to affirm, as We do affirm, the decision of the Court of Appeals as is, with costs against petitioners.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Teehankee, JJ., concur.
Villamor, J., on leave.

[1] Ramoso v. Obligado, et al., 70 Phil. 86; See also Pa-mintuan v. San Agustin, 43 Phil. 558; El Hogar Filipino v. Olviga, 60 Phil. 17; Republic v. Carle, et al., G. R. No. L-12485, July 31, 1959; Samonte et al. v. Descallar, et al., G. R. No. L-12964, Feb. 29, 1960; Duran v. Olivia, L-16589, Sept. 29, 1961.

[2] De Villa v. Trinidad, G. R. No. L-24918, March 20, 1968; Gatioan v. Gaffud, et al., G. R. No. L-21953, March 28, 1969.

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