

**NESTORIA BAD-AN, PLAINTIFF-APPELLEE, VS. ANTONIO TEVES,
ANTONIECO C. TEVES, ASTERIO C. TEVES, BERNADETTE T. JUICO,
CORAZON T. SAYCON AND STEVE C. TEVES,
DEFENDANTS-APPELLANTS.**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This is an Appeal[1] from the March 18, 2005 Decision[2] of the Regional Trial Court (RTC), Branch 33 of Dumaguete City, in Civil Case No. 13229, the dispositive of which reads:

“WHEREFORE, in the light of the foregoing disquisition, judgment is hereby rendered in favor of the (plaintiff-appellee), Nestoria Bad-an. The Register of Deeds Negros Oriental is hereby ordered to cancel Katibayan Ng Orihinal Na Titulo Blg. FV-39252 in the name of Natividad Catan married to Antonio Teves. (The defendants-appellants) are hereby ordered to:

1. reconvey Lot No. 6836 through an instrument of quitclaim in favor of (plaintiff-appellee), Nestoria Bad-an.
2. pay (plaintiff-appellee) moral damages of PHP 20,000;
3. pay (plaintiff-appellee) the amount of PhP 20,000 as attorney's fees; and
4. to pay the costs.

SO ORDERED.”

The appeal prays that We reverse and set aside the assailed decision, and render a new one, finding for herein defendants-appellants.

THE ANTECEDENTS

The instant case was commenced on September 2, 2002 by a Complaint for Cancellation of Title, Reconveyance of Real Property and Damages,[3] filed by plaintiff-appellee Nestoria Bad-an against defendants-appellants Antonio Teves, Antonieco Teves, Asterio Teves, Bernadette Juico, Corazon Saycon and Steve Teves. The complaint alleged in gist, as follows:

1. that plaintiff-appellee is the absolute owner of Lot No. 6836, Cad. 903-D, C-14, having acquired the same from her mother, Anaclea Pinili, as evidenced by a Deed of Sale dated April 29, 1976;
2. that in turn-plaintiff-appellee's mother acquired the said lot from one Gonzalo Catan, as evidenced by a Deed of Absolute Sale dated October 31, 1960;
3. that Gonzalo Catan in turn inherited the said lot from his father, Marcelino Catan, by virtue of a deed of Extra-Judicial Settlement of Estate and Agreement of Partition duly executed in 1947 by the latter's heirs, which included among others, Natividad Catan-Teves, the predecessor-in-interest of defendants-appellants.

4. that during the Cadastral Survey of all lots in Valencia Negros Oriental, another parcel of land designated as Lot No. 6638 (and which lot is rightfully owned by Natividad Catan-Teves), was erroneously included in the list of lots claimed by the father of plaintiff-appellee, Ignacio Bad-an. Thus per the records of the DENR at that time, both Lot Nos. 6836 and 6638 were surveyed in the name of Ignacio Bad-an.

5. that in order to rectify the error in the survey, plaintiff-appellee (for and in behalf of her father who was then already demented and senile), signed an Affidavit prepared by Natividad Catan-Teves for the purpose of returning Lot No. 6638 to the latter. The affidavit however erroneously stated the lot to be returned as Lot No. 6836 instead of Lot No. 6638;

6. that upon discovery of the erroneous Lot No. in the affidavit, plaintiff-appellee immediately informed Natividad Catan-Teves about it. Natividad Catan-Teves promised to make the correction;

7. that despite the information given to her and her promise to correct the erroneous lot no., Natividad Catan-Teves, with evident bad faith, proceeded to apply for the issuance of title on Lot No. 6836, on the basis of the erroneous affidavit. The DENR then issued Katibayan Ng Orihinal naTitulo Blg. FV-39252[4] in her name, hence the instant complaint praying for the cancellation of the said title for being null and void, and for the reconveyance of Lot No. 6836 to plaintiff-appellee, plus the award of damages.

In the complaint, it was further alleged that plaintiff-appellee only discovered the existence of Katibayan ng Orihinal NaTitulo Blg. FV-39252 for the first time when defendants-appellants requested for the issuance of a Tax Declaration based on the title over Lot No. 6836 from the Municipal Assessor; and that despite the existence of said title issued in favor of defendants-appellants, plaintiff-appellee, through her predecessor-in-interest, has been in continuous, uninterrupted and adverse possession in the concept of an owner over Lot No. 6836, and has been religiously paying taxes thereon up to the present.

In their October 9, 2002 Answer With Counterclaim,[5] defendants-appellants averred, on the contrary:

1. that the original owner of the land in dispute was Marcelino Catan, the late father of Natividad Catan -Teves, who is the deceased wife of defendant-appellant Antonio Teves, and mother of defendants-appellants Antonieco, Asterio, Bernadette Juico, Corazon and Steve;

2. that through an Extra-Judicial Partition executed by the heirs of Marcelino Catan in 1948, the said land was acquired by Natividad Catan-Teves, who from then on asserted her ownership over the land by paying the taxes thereon;

3. that when Natividad Catan-Teves filed an application for free patent on the subject lot,[6] it was discovered that the survey claimant of the lot was erroneously indicated on the records to be Ignacio Bad-an, (the father of plaintiff-appellee), when in truth and in fact, it was Natividad Catan-Teves;

4. that to correct such error, an “affidavit of rectification” was purportedly signed by Ignacio Bad-an, but due to his mental incapacity, his signature was affixed by plaintiff-appellee;

5. that by her acts, plaintiff-appellee is therefore estopped from questioning the validity and enforceability of the “affidavit of rectification”; and

6. that consequently, Certificate of Original Title No. FV-3952 which was issued on the strength of such “affidavit of rectification” is valid for all legal intents and purposes.

During trial, the plaintiff-appellee presented her version of the facts, backed by testimonies of her witnesses and her proffered pieces of evidence as follows:

Plaintiff-appellee Nestoria Bad-an herself, testified that:

Lot No. 6836 of the Valencia Cadastre was originally owned by Marcelino Catan, the father of Natividad

Catan Teves, the predecessor-in-interest of herein defendants-appellants, and of Gonzalo Catan, the predecessor-in-interest of the plaintiff-appellee.

When Marcelino Catan died, his estate was partitioned by and among his heirs, by means of a Settlement of Estate and Agreement of Partition.[7] In the said agreement of partition, one of the parcels of land adjudicated to Gonzalo was:

“A parcel of land situated in Lungcayab, Luzuriaga, Negros Oriental, bounded and described as follows: North-Fabiana Salburo 70.00m; West-Ramon Salburo 40.00m; South-Tiburcio Monteclaro 70.00m; East-Tomas Maquinta 40.00m, containing an area of 128 areas and 000 centares, under Tax No. 215-39 assessed for P40.00[8]

while one of the parcels adjudicated to Natividad was:

“a parcel of land situated in Tan-awn, Palinpinon, Luzuriaga, Negros Oriental, bounded and described as follows: North-Margarita Abo 50.00m; East-Margarita Abo 76.00 m; South-Catalino Merced 30.00 m; West-Catalino Merced 86.00m, containing an area of 54 ares, and 08 centares under Tax No. 21529, assessed for P250.00.[9]

The land adjudicated to Gonzalo was first declared for Tax purposes in the name of Marcelino Catan as owner (and Gonzalo Catan as administrator) in the year 1949[10]; and in the year 1952 it was transferred in the name of Gonzalo Catan.[11] In the year 1962, the land was declared under the name of Anacleto Pinili[12] by virtue of the October 31 1960 Deed of Absolute Sale[13] executed by Gonzalo in Anacleto's favor; and in the year 1974, it was transferred in plaintiff-appellee's name,[14] by reason of the April 29, 1976 Deed of Absolute Sale[15] executed by her mother, Anacleto, to her.

In 1994, the tax declaration over the lot originally pertaining to Gonzalo (now owned by plaintiff-appellee) was revised, and the land was denominated as Cadastral Lot No. 6836, with metes and bounds described as follows: North-Lot 6837 and 6835; South-Lot 6834; East-Lot 6834; West-Road, containing an area of .2887 has. under Tax Declaration No. 20-007-0335.[16]

The land pertaining to Natividad on the other hand, was denominated as Cadastral Lot No. 6638 and the tax declaration thereon was placed in Natividad's name, together with other lots, to wit: Lot 6745 and Lot 6836.[17] Per records of the Bureau of Lands, the land designated as Lot No. 6836 was being claimed by plaintiff-appellee Nestoria's father, Ignacio Bad-an, (as the tiller thereon), and the land designated as Lot No. 6638, was being claimed by Natividad.[18]

However, when the office of the Municipal Assessor of Valencia conducted a Tax Mapping Operation for Barangay Balili, the Tax Mapping Team prepared an “unapproved survey plan”[19] which erroneously labeled the land belonging to Natividad as Lot No. 6836 (when it should have been labeled as Lot 6638) and which likewise erroneously placed the name of Ignacio Bad-an as claimant thereof instead of Natividad. On the basis of such erroneous “unapproved survey plan”, and upon request of Natividad and of Carlos Benidicto, (barangay captain of Balili), plaintiff-appellee Nestoria signed an affidavit[20] for and in behalf of her senile father, Ignacio, attesting to the fact that Lot No. 6836 as appearing on the “unapproved survey plan”, did not belong to them but to Natividad. Nevertheless, when plaintiff-appellee Nestoria knew (through Annabelle Dante, the Municipal Assessor of Valencia) that her waiver of Lot No.6836 in the affidavit was a mistake, she immediately went to see Natividad to have her sign a deed of quitclaim over the said property. Natividad however refused to sign the deed, explaining that a title was already issued under her name on the strength of such affidavit. Plaintiff-appellee Nestoria was thus constrained to write to the Bureau of Lands to protest the issuance of a title in Natividad's favor, and to file an application for free patent on the lot. Plaintiffs-appellee's protest and application were denied, hence the present action for reconveyance.

Witness Annabelle Dante, Municipal Assessor of Valencia, affirmed the testimony of plaintiff-appellee Nestoria, when she narrated that she got to know of the erroneous survey plan prepared by her team when her office received from CENRO 1) a photocopy of the approved survey plan of the Municipality of Valencia[21] and 2) an alphabetical list of the claimants and the numerical list of lots within barangay Balili.[22] She testified that while the approved plan from CENRO showed that the parcel of land which was previously indicated in the draft as Lot No. 6836 is already shown as Lot No. 6638 under the claim of Natividad Catan; the CENRO numerical list of lots in Barangay Balili, affirmatively showed that Lot No. 6836 is in fact being claimed by Ignacio Bad-an, and another lot separate from Lot 6836, Lot 6638 is the lot claimed by Natividad Catan. Dante then testified that she informed plaintiff-appellee of such correct and approved survey plan, after Natividad attempted to apply for the issuance of a tax declaration on Lot No. 6836, and testified further that upon receipt of such information, plaintiff-appellee immediately lodged a protest before the office of the Municipal Assessor against Natividad.

Witness Segundino Lambino's testimony as Records Officer I of CENRO, corroborated the testimony of witness Dante on the erroneous survey plan prepared by Dante's mapping team vis a vis the CENRO approved survey plan for Valencia Negros Oriental. Bringing with him a blue print of the approved survey plan[23] to court, Lambino testified on the correct geographical location of Lot Nos. 6836 and 6638, highlighting the fact that the lots adjacent to Lot 6836 are all starting with numbers "68" and that the lots adjacent to Lot 6638 are all starting with the numbers "66", except the lot on the northwest of the lot in controversy which is Lot 6877. He then pointed out from the survey plan that Lot 6836's recorded survey claimant is indeed Ignacio Bad-an, while that of Lot 6638 is its owner, Natividad Catan-Teves.

Lastly, Barangay Captain Carlos Benedicto, (barangay captain of Barangay Balili, Valencia for fourteen years) likewise affirmed plaintiff-appellee Nestoria's testimony on her signing of an affidavit initially waiving their claim on Lot No. 6836. Benedicto confirmed that it was he who informed the Bad-ans that Natividad's land shared the same cadastral number with their land, on the basis of the municipal map furnished to him by the Mayor of Valencia; and that it was he who brought the affidavit of waiver for signing by the Bad-ans to in effect waive Lot No. 6836, which as shown by the map is located west of their claimed property. Benedicto then testified that it was plaintiff-appellee Nestoria who signed the affidavit for and in behalf of her senile father.

After plaintiff-appellee rested her case, defendants-appellants, by leave of court, sought the dismissal of plaintiff-appellee's complaint by way of a Demurer to Evidence[24] filed on October 20, 2003.

On January 20, 2004 however, the trial court in an Order denied Defendants-Appellants Demurer to Evidence.[25]

With the denial of their Demurer to Evidence, the defendants-appellants presented their evidence, to wit:

Ms. Socorro Alcala and Ms. Elsie Calumpang, Lands Management Officer and Special Investigator respectively, of CENRO I, both testified to have accepted and processed Natividad's application for free patent of several lands in Barangay Balili, Valencia, Negros Oriental. Alcala claimed that in one of her visits to Natividad to determine the lots belonging to the latter, it was found out that one of the lots Natividad was claiming was erroneously placed under the name of Ignacio Bad-an as survey claimant. Upon the behest of Natividad, she prepared an affidavit for signing by Ignacio, the contents of which she explained to him (in the presence of Calumpang) as a waiver of Lot 6836 in Natividad's favor, and which plaintiff-appellee Nestoria signed for and in behalf of her bedridden father. With the affidavit of waiver having been signed in support of the application of Natividad, Lot 6836 was issued a free patent under Natividad's name.

Ms. Anacleto S. Moreno, contractual worker of the DENR, Dumaguete City claimed that when she was still a casual land inspector of the same office, plaintiff-appellee Nestoria Bad-an wanted to apply for a free patent on Lot 6836. From the records, the lot was however subject of a prior and existing application from Natividad, thus Nestoria's application was denied, and she was forced to contest and protest the issuance of the free patent

on the lot to Natividad.

Gorgonia Siega, Jr., special investigator of CENRO II, claimed to have summoned Nestoria and Mr. Antonio Teves for a conference in relation to Nestoria's protest of the free patent granted to Natividad over lot 6836. During the conference, Nestoria allegedly admitted having signed the affidavit for her father, Ignacio, on the belief that what she was waiving for and in behalf of her father was owned by Natividad and that when she learned that what she had waived belonged to her, she went to the house of Teves and asked him to withdraw Natividad's application. Siega opined however that his office had no jurisdiction over the protest as a free patent on the land had already been issued in favor of Natividad.

Mr. Antonio G. Teves confirmed that his wife, Natividad, had several lots located in Barangay Balili, Valencia, Negros Oriental, and one of which is the subject lot which she inherited from her father by virtue of a Deed of Partition,[26] described particularly as follows: "a parcel of land situated in Kan-awn, Palinpinon, Luzuriaga, Negros Oriental, bounded and described as follows: North-Margarita Abo, East-Margarita Abo, South-Catalino Merced and West-Catalino Merced containing an area of 34 and 02 centares under Tax Declaration No. 21529 assessed for 230 pesos."

He narrated that Natividad had been in possession of the subject lot since 1950, had planted mango trees thereon, and had paid for its taxes[27] even until after the lot was issued a title in 1997.

He averred that notwithstanding the fact that the lot which is located in the West of Balili Elementary School, was initially declared for tax purposes in the name of Marcelino Catan,[28] and later in the name of Natividad in Tax Declaration Nos. 29681,[29] 3744,[30] 019-854[31] and 19-1049[32] with the same metes and bounds aforementioned; the subject lot was also declared in the name of Ignacio Bad-an under Tax Declaration No. 20-007-0335 in 1994,[33] and later under the name of Nestoria in Tax Declaration No. 99-20-007-00346 in 1999,[34] with both declarations describing the metes and bounds of the lot as: North-Municipality of Sibulan, South-Lot 6636, East-Lot 6639, 6669 and West -6877, 6837.

He then averred that the subject lot is now denominated as Lot 6836, bounded by the following, viz: North-Lot 6837 and 6835, East-Lot 6834, South-Lot 6834 and West-Road, containing an area of 288 square meters and declared anew under the name of Natividad C. Teves in TD 2002-18-007-0443 in the year 1997,[35] under the name of Catan Marcelino as owner and Natividad as administratrix in TD 99-20-007-00097[36] and under the name again of Natividad C. Teves in TD 2002-18-007-00459,[37] albeit with the notation that the said parcel of land is also declared in the name of Nestoria Bad-an covered by ARP No. 99-20-007-000346.[38]

Teves denied that he was informed of the erroneous waiver of plaintiff-appellee Nestoria long before the issuance of the free patent but admitted that he came to see Nestoria in the year 2000 to request for a copy of the Deed of Partition for his wife's sister.

On March 18, 2005, the RTC rendered the assailed decision against defendants-appellants. The decision declared among others: 1) that the survey plan which plaintiff-appellee used as basis to waive Lot 6836 in favor of Natividad was erroneous; 2) that it was such erroneous survey plan which misled plaintiff-appellee into believing that Lot 6836 belonged to Natividad; 3) and that even with notice from plaintiff-appellee that the waiver was erroneous, Natividad still proceeded with her application for the issuance of title on Lot 6836, thus the fraud on her part. The trial court concluded that a cancellation of the title in the name of Natividad is warranted, reconveyance of the property to plaintiff-appellee is proper and an award of moral damages and attorney's fees is just.

Defendants-appellants are now interposing the present appeal, with the following Assignment of Errors, viz:

I.

THE LOWER COURT ERRED WHEN IT DENIED APPELLANTS' MOTION FOR DEMURRER TO

EVIDENCE

II.

THE LOWER COURT ERRED:

1. WHEN IT ORDERED THE REGISTER OF DEEDS OF NEGROS ORIENTAL TO CANCEL THE TITLE KATIBAYAN NG ORIINAL NA TITULO BLG. FV-39252 IN THE NAME OF NATIVIDAD CATAN MARRIED TO ANTONIO TEVES
2. WHEN IT ORDERED THE (DEFENDANTS-APPELLANTS) TO RECONVEY LOT NO. 6836 TO THE (PLAINTIFF-APPELEE) THROUGH AN INSTRUMENT OF QUITCLAIM.
3. WHEN IT ORDERED THE (DEFENDANTS-APPELLANTS) TO PAY MORAL DAMAGES AND ATTORNEY'S FEES TO APPELLEE.
4. WHEN IT ORDERED THE (DEFENDANTS-APPELLANTS) TO PAY THE COSTS.

And in support of the foregoing, they posit the following arguments, viz: 1) that plaintiff-appellee's complaint is in effect one for reversion thus she has no authority to institute the action; 2) that granting plaintiff-appellee has the authority to institute the action, she still has no right whatsoever over Lot No. 6836; and 3) that granting that plaintiff-appellee has a right over the lot, she is estopped from enforcing such right because of her initial waiver of the lot, and because of prescription.

Plaintiff-appellee then submitted her Appellee's Brief[39] with her counter-arguments that her case is not for reversion, that the principle of estoppel in pais is not applicable, that the defense of prescription is unavailing and that the award of moral damages, attorney's fees and costs is proper.

OUR RULING

Regarding the first argument, defendants-appellants allege that the subject property was formerly a public land, titled in the names of their predecessor, Natividad , by virtue of Katibayan Ng Orihinal na Titulo Blg. FV-39252 045802-96-2847. Thus, they posit that the plaintiff-appellee does not have the personality to institute the action for Cancellation of Title, etc., because such authority is vested in the Republic of the Philippines, through the Office of the the Solicitor General.

Defendants-appellants are mistaken. As is glaring from plaintiff-appellee's complaint, she alleged: first, that she is the absolute owner of Lot 6836, having acquired the said parcel of land in 1976 from her mother, Anaclea Pinili, who bought the same in 1960 from Gonzalo Catan, who in turn inherited it in 1947 from his father, Marcelino Catan, the original owner thereof ; and second, that defendants-appellants illegally rid her of the ownership of the land by having the same property registered in the name of their predecessor-in-interest, Natividad Catan Teves. The complaint was therefore not an action for reversion which required that the State be the one to initiate the action in order for it to prosper.[40] Rather, it was an action for declaration of nullity of free patent, where plaintiff-appellee, as real party-in-interest, alleged a pre-existing right of ownership over the parcel of land in question, even before the grant of title to defendants-appellants.

The distinction between the two actions was elucidated in the case of Heirs of Kionisala v. Heirs of Dacut,[41] where it was written:

“An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. In an action for reversion, the pertinent allegations in the complaint

would admit State ownership of the disputed land. xxx On the other hand, a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent xxx as well as the defendant's fraud or mistake, as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff."

It is obvious that plaintiff-appellee has successfully alleged in her complaint all the facts necessary to seek the nullification of the free patent in the name of Natividad over Lot 6836. She has even substantiated these facts by a plethora of evidence, having submitted for the trial court's consideration 1) the paper trail of the land showing her ownership and possession thereof prior to the issuance of the free patent, and 2) the testimonies of her witnesses, demonstrating the fraud that rid her of her ownership of the property. In the absence of countervailing evidence from defendants-appellants, plaintiff-appellee is clearly the real party in interest in the suit, and the latter could only have committed fraud in securing such title. The trial court was therefore correct to declare, that:

"The Torrens title was issued to Natividad Catan-Teves on 29 August 1997. It was issued because of fraud on the part of Natividad to proceed with her application for free patent despite the fact that she was already informed by Nestoria that the affidavit she executed was a mistake because what she intended to waive was Lot No. 6638 and not Lot 6836".

Dealing further on the trial court's finding of fraud, We opine that the complaint stands actionable notwithstanding defendants-appellants' ascription of estoppel and their assertion of prescription of plaintiff-appellee's action.

Defendants-appellants cannot invoke estoppel. While there is abundant evidence to negate the element of "concealment of material facts" in plaintiff-appellee's execution of the erroneous waiver of Lot No. 6836, there is also no evidence to establish defendants-appellants' "lack of knowledge" of such erroneous waiver prior to the issuance of the assailed patent.[42] On the contrary, the records are replete to show that despite her knowledge of plaintiff-appellee's erroneous waiver, Natividad still proceeded with her application, hence there is no estoppel to talk about.

Defendants-appellants cannot also invoke the defense of prescription. We declare, in the light of overwhelming evidence that plaintiff-appellee has since been in the uninterrupted possession of the lot until present; and this We explain by first discussing the concept of free patents, viz:

A Free Patent may be issued where the applicant is a natural-born citizen of the Philippines; is not the owner of more than twelve (12) hectares of land; has continuously occupied and cultivated, either by himself or through his predecessors-in-interest, a tract or tracts of agricultural public land subject to disposition, for at least 30 years prior to the effectivity of Republic Act No. 6940; and has paid the real taxes thereon while the same has not been occupied by any person.[43]

Once a patent is registered and the corresponding certificate of title is issued, the land covered thereby ceases to be part of public domain and becomes private property, and the Torrens Title issued pursuant to the patent becomes indefeasible upon the expiration of one year from the date of such issuance.[44] However, a title emanating from a free patent which was secured through fraud does not become indefeasible, precisely because the patent from whence the title sprung is itself void and of no effect whatsoever.[45] Instructive of this tenet is the ruling in Republic vs. Heirs of Felipe Alejaga, Sr.[46] which reads:

"xxx Further, the Torrens Title issued pursuant to the patent becomes indefeasible a year after the issuance of the latter. However, this indefeasibility of a title does not attach to titles secured by fraud and misrepresentation. Well-settled is the doctrine that the registration of a patent under the Torrens System does not by itself vest title; it merely confirms the registrant's already existing one. Verily, registration under the

Torrens System is not a mode of acquiring ownership.”[47]

Though it is the rule that a fraudulently acquired free patent may only be assailed by the government in an action for reversion, this is not without an exception.[48] A recognized exception is that situation where plaintiff-claimant seeks direct reconveyance from defendant, of a public land unlawfully and in breach of trust titled by him, on the principle of enforcement of a constructive trust.[49]

In *Roco, et al. v. Gimeda*,[50] the Highest Court stated that if a patent had already been issued through fraud or mistake and has been registered, the remedy of a party who has been injured by the fraudulent registration is an action for reconveyance. And in *Quiñiano, et al. v. Court of Appeals, et al*,[51] it stressed in the same vein with the *Roco* case that:

“The controlling legal norm was set forth in succinct language by Justice Tuason in a 1953 decision, *Director of Lands v. Register of Deeds of Rizal*. Thus: “The sole remedy of the land owner whose property has been wrongfully or erroneously registered in another’s name is, after one year from the date of the decree, not to set aside the decree, as was done in the instant case, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages.” Such a doctrine goes back to the 1919 landmark decision of *Cabanos v. Register of Deeds of Laguna*. If it were otherwise the institution of registration would, to quote from Justice Torres, serve “as a protecting mantle to cover and shelter bad faith” xxx”

Thusly, a private individual may bring an action for reconveyance of a parcel of land even if the title thereof was issued through a free patent, since such action does not aim or purport to re-open the registration proceeding and set aside the decree of registration. The action only aims to show that the person who secured the registration of the questioned property is not the real owner[52] or that the plaintiff-claimant has a better right thereof.[53]

Such is the case with plaintiff-appellee here, thus We believe that reconveyance is the proper remedy.

Next, We resolve whether such remedy is already time-barred, by looking into the ruling in the highly illustrative case of *Brito vs. Dianala*,[54] viz:

“Article 1456 of the Civil Code provides that a person acquiring property through fraud becomes, by operation of law, a trustee of an implied trust for the benefit of the real owner of the property. An action for reconveyance based on an implied trust prescribes in ten years, the reckoning point of which is the date of registration of the deed or the date of issuance of the certificate of title over the property.

xxx

An action for reconveyance based on an implied or constructive trust must perform prescribe in ten years and not otherwise. A long line of decisions of this Court, and of very recent vintage at that, illustrates this rule. Xxx The only discordant note, it seems, is *Balbin vs. Medalla*, which states that the prescriptive period for a reconveyance action is four years. However, this variance can be explained by the erroneous reliance on *Gerona vs. de Guzman*. But in *Gerona*, the fraud was discovered on June 25, 1948, hence Section 43(3) of Act No. 190, was applied, the new Civil Code not coming into effect until August 30, 1950 as mentioned earlier. xxx

An action for reconveyance has its basis in Section 53, paragraph 3 of Presidential Decree No. 1529, which provides: In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, x x x.

This provision should be read in conjunction with Article 1456 of the Civil Code, x x x

x x x x

The law thereby creates the obligation of the trustee to reconvey the property and the title thereto in favor of the true owner. Correlating Section 53, paragraph 3 of Presidential Decree No. 1529 and Article 1456 of the Civil Code with Article 1144(2) of the Civil Code, *supra*, the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title. xxx”

In the instant case, the assailed Katibayan Ng Orihinal na Titulo Blg. FV-39252 was issued under the name of defendants-appellants’ predecessor-in-interest, Natividad Catan-Teves on August 29, 1997, while the complaint for Cancellation of Title, etc. was filed by plaintiff-appellee on September 2, 2002. The complaint was therefore filed before the expiry of the ten-year prescriptive period and as such, plaintiff-appellee’s action for reconveyance is not barred by prescription.

Be that as it may, the prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession thereof.[55] Otherwise, if the plaintiff is in possession of the property, prescription does not commence to run against him. Thus, when an action for reconveyance is nonetheless filed, it would be in the nature of a suit for quieting of title, an action that is imprescriptible. The reason for this is that one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the rationale for the rule being, that his undisturbed possession provides him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by the one who is in possession.[56]

Here, it is beyond dispute from the evidence, particularly the tax receipts and tax declarations proffered by plaintiff-appellee, that she, through her predecessors in interest, has been in possession of the lot covered by Katibayan Ng Orihinal na Titulo Blg. FV-39252 since the year 1960 up to the present. While defendants-appellants claim otherwise, they did not only fail to refute plaintiffs-appellee’s evidence, they were even amiss in giving support to their own assertion of possession, by submitting tax declarations and tax receipts which clearly do not pertain to the property in litigation. By reason of plaintiffs-appellee’s proven possession of the disputed property, it follows that her complaint for reconveyance is, in fact, imprescriptible. With more reason then that We say the action of plaintiff-appellee is not time-barred.

Now, to rule on whether plaintiff-appellee has established a right better than that of defendants-appellants over the subject land, as to be afforded the remedy of reconveyance, We believe that the Deeds of Sale, the tax declarations and the tax receipts on the land should again be given credence. The Deeds of Sale show succinctly the history of plaintiffs-appellee’s acquisition of ownership of the subject lot. Further, the tax receipts and tax declarations on the property indicate her possession thereof in the concept of an owner, “for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession.”[57]

Not only that, while defendants-appellants have seemingly gained ownership of the land in 1997 by having it titled under Natividad’s name, We reiterate that it has been proven by the records that said title is erroneous, having arisen from plaintiff-appellee’s erroneous waiver of the land in question, which waiver was based from an erroneous survey map. Accordingly, plaintiff-appellee has established her rightful ownership and possession of the land in litigation, to the exclusion of defendants-appellants.

Finally, on the issue of the award of moral damages, attorney’s fees and costs, We defer to the findings of the trial court, anchored as they are on the proven facts and on substantial evidence. From the records, it is clear that the fraudulent titling of the subject land by defendants-appellants brought injury to plaintiff-appellee and forced her to

litigate to assert her rights so that the award of damages is indeed in order.

WHEREFORE, the instant appeal is DENIED. The March 18, 2005 Decision of the RTC, Branch 33 of Dumaguete City in Civil Case No. 13229 is AFFIRMED in toto.

SO ORDERED.

Ingles, [**] and Lopez, JJ., concur.

[*] In the Appellants' Brief, the name is Aster C. Teves.

[**] Vice Justice Delos Santos who is on wellness leave, per Office Order No. 13-14-GTI dated June 17, 2014.

[1] Rollo, pp. 58-104.

[2] Rollo, pp. 105-123.

[3] Records, pp. 3-8.

[4] Records, p. 15.

[5] Records, pp. 20-23.

[6] Records, p. 46.

[7] Records, pp. 146-163.

[8] Records, p. 155 (Exhibit C-9-9)

[9] Records, p. 157 (Exhibit C-11)

[10] Records, p. 164.

[11] Records, p. 13.

[12] Records, p. 165.

[13] Records, p.12.

[14] Records, p. 166.

[15] Records, pp. 10-11.

[16] Records, p. 167.

[17] Records, p. 171.

[18] Records, pp. 168-169.

[19] Records, p. 170.

[20] Records, p. 14.

[21] Records, p. 174.

[22] Records, pp. 176-179.

[23] Records, pp. 180-181.

- [24] Records, pp. 116-
- [25] Records, pp. 193-196.
- [26] Records, pp. 290-307.
- [27] Records, pp. 317-319.
- [28] Records, p. 34.
- [29] Records, p. 308
- [30] Records, p. 309
- [31] Records, p. 310
- [32] Records, p. 311
- [33] Records, p. 325
- [34] Records, p. 324
- [35] Records, p. 314
- [36] Records, p. 315
- [37] Records, p. 316
- [38] Records, Dorsal portion of 316. (Exhibit 11-i)
- [39] Rollo, pp. 199-217.
- [40] Spouses Crispin and caridad galang vs. Spouses Conrado S. Reyes and Fe De Kastro Reyes, G.R. No. 184746, August 8, 2012.
- [41] 428 Phil. 249.
- [42] As related to the party to be estopped, the essential elements are: (1) conduct amounting to false representation or concealment of material facts; or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (2) intent, or at least expectation that his conduct shall be acted upon by, or at least influence, the other party; and (3) knowledge, actual or constructive, of the real facts. As related to the party claiming the estoppel, the essential elements are (1) lack of knowledge and of the means of knowledge of the truth as the facts in questions; (2) reliance, in good faith, upon the conduct or statements of the party to be estopped; (3) action or inaction based thereon of such character as to change the position or status of the party claiming the estoppel, to his injury, detriment or prejudice. (Manila International Airport Authority vs. Ding Velayo Sports Center, Inc. G.R. No. 161718, December 14, 2011.
- [43] Republic vs. Court of Appeals, 406 Phil 597, 606 (2001)
- [44] Heirs of Alcaraz vs. Republic, 502 Phil. 521, 532. (2005)
- [45] Id. at 533.
- [46] 441 Phil. 656 (2002)
- [47] Id at 674.
- [48] Section 101 of the Public Land Act:

All actions for reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Republic of the Philippines.

[49] Causapin vs. Court of Appeals, G.R. No. 107432, July 4, 1994.

[50] 104 Phil. 1011 (1958)

[51] 148-A Phil. 181 (1971)

[52] Esconde vs. Hon. Barlongay, 236 Phil. 644.

[53] Heirs of Domingo Valientes vs. Hon. Reinerio (Abraham) B. Ramos, G.R. No. 157852, December 15, 2010 citing Walstrom v. Mapa (G.R. No. L-38387, January 29, 1990)

[54] Ramon B. Brito, Sr. vs. Severino D. Dianala, et.al., G.R. No. 171717, December 15, 2010.

[55] Heirs of Salvador Hermosilla vs. Spouses Jaime and Luz Remoquillo, G.R. No. 167320, January 30, 2007.

[56] DBP vs. Court of Appeals, 331 SCRA 267.

[57] Republic of the Philippines vs. Neptuna G. Javier, G.R. No. 179905, August 19, 2009.

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