

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PLAINTIFF-APPELLANT, VS. HEIRS OF EMILIANO CORTEZ, REPRESENTED BY ANTONIA GAFFUD VDA. DE CORTEZ AND THE REGIST...

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

In Republic vs. Roxas, et al.,^[1] the Supreme Court reiterated previous indoctrination in land registration that reversion can still prosper based on grounds other than fraud:

“Reversion is an action where the ultimate relief sought is to revert the land back to the government under the Regalian doctrine. Considering that the land subject of the action originated from a grant by the government, its cancellation is a matter between the grantor and the grantee. In Estate of the Late Jesus S. Yujuico v. Republic (Yujuico case), reversion was defined as an action which seeks to restore public land fraudulently awarded and disposed of to private individuals or corporations to the mass of public domain. It bears to point out, though, that the Court also allowed the resort by the Government to actions for reversion to cancel titles that were void for reasons other than fraud, i.e., violation by the grantee of a patent of the conditions imposed by law; and lack of jurisdiction of the Director of Lands to grant a patent covering inalienable forest land or portion of a river, even when such grant was made through mere oversight. In Republic v. Guerrero, the Court gave a more general statement that the remedy of reversion can be availed of "only in cases of fraudulent or unlawful inclusion of the land in patents or certificates of title." (Emphasis ours, citations omitted.)”

With the trial court’s rejection of the Republic’s quest to revert certain lands in Echague, Isabela, through the Decision on June 16, 2011,^[2] can We decree reversion from a different perspective unlike what was perceived below, or in line with Republic vs. Roxas, et al.?

Before the focal point on appeal is addressed, We unravel pertinent backdrop.

What the Republic wanted to nullify was Free Patent No. V-24082 and Original Certificate No. P-9148 in the name of Emiliano Cortez, inclusive of the derivative title, Transfer Certificate of Title No. T-42959, in the name of Antonia Gaffud Vda. De Cortez, for Lots No. 4602 and 4603, at Isabela.^[3]

It appeared from the Republic’s Complaint that Emiliano Cortez filed a free patent application for Lots 4602 and 4603 in 1953. On the basis of such application, an entry was issued in 1955 and Original Certificate of Title No. P-9148 was issued for the applicant but it was later cancelled in 1969 by Certificate of Title No. T-42959 of Antonia Gaffud Vda. De Cortez.

Averred as well on the initiatory pleading was the opposition in 1956 from Domingo Samut, represented by Antonia Samut, to Cortez’s application on the strength of Samut’s claim of actual possession since the last global war and fraud. An investigation in 1974 supposedly disclosed that Cortez was not the actual occupant and neither did he cultivate the lots in 1946.

Per their Answer and Third-Party Complaint against the heirs of Domingo and Antonia Samut and Chito

Singson,[4] the heirs of Emiliano Cortez denied fraud.[5] They capitalized on ownership borne of the title,[6] and alleged that Joaquin Samut, Domingo Samut or Antonia Samut, their heirs and successors-in-interest, were permitted to occupy the subject lots per a lease contract executed on June 21, 1961.[7]

Defendants and third-party plaintiffs also asserted that the heirs of Joaquin and Domingo Samut violated the terms of the Contract of Lease due to inability to deliver the share of the landowner upon the death of the registered owner-lessor, Emiliano Cortez and Antonia Vda de Cortez. Moreover, the heirs of Joaquin Samut and Domingo Samut acted in bad faith when they sold a portion of the subject property to third-party defendant Chito Singson.[8] With respect to the investigation and the findings of the Bureau of Lands, it was assailed as illegal due to the lapse of 18 years subsequent to the issuance of OCT No. P-9148 in 1956. Prescription was also invoked against the State's intent to revert the property after more than 40 years following the grant of patent to Emiliano Cortez.[9]

In his Answer, third-party defendant Chito Singson (Chito) admitted that he purchased a portion of the subject lots, which he occupied and cultivated, from the heirs of Domingo Samut.[10] He argued that his occupation and cultivation of the lot, including that of his predecessors-in-interests, for more than thirty years, vested title over the lot to him and the heirs of Domingo Samut.[11] Chito rejected the existence of a lease contract between Joaquin Samut and Emiliano Cortez and contended that Joaquin could not have bound his father, Domingo, to the contract of lease as Joaquin had no authority to represent his father.[12] Moreover, Chito pointed out that Joaquin denied his signature on the lease contract and claimed forgery thereon.[13]

For their part, as third-party defendants, the heirs of Domingo and Antonia Samut, represented by Leticia Gonzales, filed their Answer which reiterated material averments in the protest of Domingo Samut dated November 4, 1956 and the findings and conclusions of the DENR, Region 2, Tuguegarao, Cagayan in 1997.[14] They further argued that the Contract of Lease, relied upon by the heirs of Emiliano Cortez to prove that third-party defendants were merely lessees, was found to be a forgery and executed without authority.[15] They also interposed among other defenses, that third-party plaintiffs acquired title to the property by fraudulent manipulation as to their fact of possession over the subject lots.[16]

Aggrieved by the trial court's Order dated July 10, 2001 which denied their plea for injunctive relief, defendants-appellees/third-party plaintiffs filed a Petition for Certiorari with the Court of Appeals.[17]

In the meantime, Pre-Trial of the main case was conducted on October 12, 2001.[18] On the other hand, Pre-Trial Conference for the Third-Party Complaint was conducted on November 6, 2001.[19]

On April 12, 2002, the Court of Appeals denied defendants'-appellees/third-party plaintiffs' Petition for Certiorari on the aspect of injunctive relief.[20] Defendants-appellees/third-party plaintiffs sought further recourse before the Supreme Court which rendered its Decision which enjoined third-party defendants Heirs of Domingo Samut/Antonia Samut, represented by Leticia Samut-Gonzales, and Chito Singson from selling or disposing the subject lots.[21]

Subsequently, trial on the merits ensued. At the trial, plaintiff-appellant presented three witnesses namely: Nicanor Guiab, Atty. Nicanor Garcia and Leticia Samut- Gonzales.

Nicanor Guiab (Nicanor) testified that he was a 73 years old and a farmer from Maligaya, Echague Isabela;[22] that he personally knew Domingo Samut, as he was the husband of his aunt Fulciana;[23] that during his childhood days he stayed on the subject lots with Domingo;[24] that Domingo commenced possession and occupation of the subject lot in 1927;[25] that no one disturbed Domingo's possession;[26] that he was not aware of any person who laid any claim over the subject lots.[27] Nicanor recounted that Domingo planted fruit-bearing

trees and constructed a house thereon;[28] that when Domingo passed away in 1983, his children and grandchildren continued possession and cultivation of the lots;[29] that Leticia Gonzales, one of the Domingo's grandchildren, planted fruit bearing trees and corn on a portion of the subject lots;[30] that he was aware of the improvements on the property because he would visit the place often.[31]

When cross-examined, Nicanor testified that he did not know the father or mother of Domingo;[32] that he was not aware of any title or document on the subject lots;[33] that he did not know Isidro Rosario, Gregorio Eloria, Dominador Agustin and Manuel Gorospe;[34] that he moved out from the disputed properties in 1953 when he got married.[35] Nicanor only assumed that it was the Samuts who planted trees on the subject lots as they were the only ones staying in the premises.[36] Nicanor declared that corn was planted thereon by a certain Mr. Singson.[37] In his re-direct examination, Nicanor confirmed that he did not know the date of Domingo's death as he was in Babaran at that time.[38]

Atty. Nicanor Garcia (Atty. Garcia) testified, among other matters, that he was a former employee of the Legal Division of the DENR;[39] that he received a directive from the DENR Regional Director to conduct investigatory inspection on the report and findings of land investigator Napoleon Dulay relative to the Protest filed by Domingo Samut against the free patent and title of Emiliano Cortez over the subject lots (Lots No. 4602 and 4603, Cad 210 of Echague Cadastre);[40] that he conducted an inspection of the subject lot; that based on his inspection of the subject lots, the Samuts were the occupants of the property, and confirmed the ocular inspection of land investigator Dulay;[41] that he drafted an Order recommending the filing of reversion proceedings against Emiliano Cortez.[42] While reviewing the records of the report of land investigator Dulay, Atty. Garcia chanced upon the free patent applications of Dominador Agustin and Victoriano Agustin over the subject lots.[43] He testified that Domingo Samut and his heirs did not apply for Free Patent over the disputed lots.[44]

Plaintiff's-appellant's proposed last witness was Leticia Samut-Gonzales but her testimony was dispensed with after the defendants' counsel admitted the substance of her would-be testimony.[45]

In furtherance of its Petition, plaintiff-appellant submitted its formal offer of documentary exhibits:[46]

Exhibit "A"

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F.P.A. No. V-17515 of Emiliano Cortez;

Exhibit "B"

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Free Patent Entry No. V-24082 dated December 5, 1955;

Exhibit "C"

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Original Certificate of Title No. 9148 in the name of Emiliano Cortez;

Exhibit "D"

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Transfer Certificate of Title No. T-42959 issued in the name of Antonia Vda. De Cortez on July 2, 1969;

Exhibit "E"

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Protest of Antonia Samut dated November 5, 1956;

Exhibit “F”

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Investigation Report of Napoleon Dulay dated March 8, 1985;

Exhibit “F-1”

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Ocular Inspection of Napoleon Dulay embedded in the Investigation Report dated March 18, 1985;

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Exhibit “G”

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Picture showing Atty. Nicanor G. Garcia who conducted a confirmatory ocular inspection of the area; and

Exhibit “G-1”

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Picture showing Sonia Dancel, sister of Leticia Gonzales in her small but built on the protested area covered by the title of Emiliano Cortez, Sr.

Defendants-appellees/third-party plaintiffs presented three witness namely: Mr. Christina Cortez-Estrada, Ms. Minerva Ruma and Lolita P. Ramos.

Before presentation of Ma. Christina Cortez-Estrada (Christina), defendants'-appellees' counsel manifested to the Court that her testimony would be utilized as her testimony in their third-party Complaint against the Heirs of Domingo Samut and Chito Singson.[47] In her Judicial Affidavit, Christina declared that her deceased parents, Emiliano Cortez and Antonia Gaffud owned two (2) parcels of lot identified as Lots No. 4602 and 4603 at Barangay Libertad, Echague, Isabela.[48] Christina also declared that Emiliano Cortez acquired the subject pieces of property in 1953 from the original Free Patent Applicant Gregorio Eloria; that when her late father bought the property, he pursued its cultivation through paid laborers and planted it with rice, corn and cassava; that her father allowed Joaquin Samut to enter and cultivate the two (2) lots after execution of a lease contract; that when she visited the subject lots, she learned that the Director of Land filed a reversion proceeding against her father and that the heirs of Samut were claiming ownership of the subject lots; that she sought the services of a lawyer to protect the rights and interests of her family for the disputed property.[49]

During her cross-examination, Christina testified that she was born on November 30, 1939 in Manila and grew up in Quezon City;[50] that she was not aware of any Complaint filed against her father before the Bureau of Lands;[51] that she was not aware of any letter or telegram sent to one Mangubat and one Demetrio Vehemente on April 6, 1975;[52] that she came to know the existence of the lease contract when she looked into the files of her deceased father;[53] that she does not know and has not personally met Gregoria Eloria. Christina admitted that she did not see Gregorio clear the land and construct pilapil thereon; and that her statement on her affidavit, that Gregorio was the original applicant of the land and that he cleared the land, constructed the pilapils and converted a portion thereof into ricefield, was merely based on the documentary evidence she obtained.[54]

Further, Christina recalled that it was her mother who often collected the landowner's share during her lifetime. Christina also pointed out that real estate taxes of the subject property was religiously paid by her.[55]

The second witness for defendants-appellees/third-party plaintiffs was Ms. Minerva Ruma. Minerva testified that she was from the Municipal Assessor's Office of the Municipality of Echague;[56] that Lot 4602 Cad 210 was declared for taxation purposes in the name of Antonia G. Vda. Cortez;[57] that there were two declarants for Lot 4603 namely, Antonia G. Vda de Cortez[58] and Domingo Samut;[59] and that she does not know the basis of the issuance of Tax Declaration for Domingo Samut.[60]

The last witness for defendants-appellees/third-party plaintiffs was Lolita P. Ramos. She testified that she was an employee of the Provincial Assessor's Office of Isabela[61] and identified the Declaration of Real Property in the name of Emiliano P Cortez with Tax Declaration No. 10187[62] and Tax Declaration No. 16617.[63]

In support of their position, defendants-appellees/third-party plaintiffs formally offered their documentary evidence consisting of Exhibits 1 to 22 and sub-markings.[64]

After calibrating the parties' evidence, the court's Decision was pronounced on June 16, 2011:[65]

WHEREFORE, premises considered, the plaintiff's Complaint is, as it is, hereby DISMISSED.

Likewise, the third-party Complaint against third-party defendant Samut, is, as it is, hereby DISMISSED.

Third-Party defendant CHITO SINGSON is hereby ordered to vacate and surrender possession thereof to the defendant and third-party plaintiffs.

SO ORDERED. (Emphasis Supplied)

Dismayed by the verdict, third-party defendant Chito Singson and appellant filed their respective Notices of Appeal.[66] On January 14, 2013, a Resolution was issued by the Former Ninth Division of this Court, thusly:[67]

WHEREFORE, for failure to file the required appellant's brief within the reglementary period which expired on July 18, 2012, despite the extension given, the appeal of third-party defendant-appellant Chito Singson is DISMISSED pursuant to Section 1 (e) Rule 50 of the Rules of Court.

The Brief for the Defendants and Third-Party Plaintiffs- Appellees dated November 15, 2012 (Rollo, pp. 148-186) and the Brief for the Plaintiff-Appellant dated August 15, 2012 filed on December 27, 2012 (Rollo, pp. 188-212) are noted.

SO ORDERED.

Consequently, a Partial Entry of Judgment was issued against third-party defendant-appellant Chito Singson on May 21, 2013.[68]

In the present recourse before Us, appellant raised the sole argument that:[69]

EMILIANO CORTEZ COMMITTED FRAUD AND MISREPRESENTATION IN HIS FREE PATENT APPLICATION OVER LOT NOS. 4602 AND 4603. THUS, REVERSION OF LOT NOS. 4602 AND 4603 TO THE MASS OF PUBLIC DOMAIN IS WARRANTED.

We deny the instant appeal.

Appellant anchored the Complaint for cancellation of Free Patent No. V-24082, OCT No. P-9148 and TCT No.T-42959[70] on Section 91 of Commonwealth Act 141 which, in part, reads:[71]

Section 91 xxx. The statements made in the application shall be considered as essential conditions and parts of any concession, title or permit issued on the basis of such application, and any false statements therein or

omission of facts altering, changing or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall ipso facto produce the cancellation of the concession, title or permit granted.

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For its right of reversion, appellant invoked Section 101 of the Public Land Act:[72]

Sec. 101 - All actions for the reversion of 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.

To impugn defendants'-appellees'/third-party plaintiffs' free patent application, appellant alleged that Emiliano Cortez committed fraudulent representations in his free patent application over Lots No. 4602 and 4603 since another person claimed ownership and possession over the subject parcels of land.[73]

In civil cases, the burden of proof is on the plaintiff to establish his case by a preponderance of evidence[74] thus, appellant carried the onus to prove accusations of fraud against Emiliano Cortez. Appellant failed to discharge this burden on account of these matters:

First, appellant's documentary evidence failed to conclusively prove that the heirs of Domingo Samut were in possession of 'the disputed lots long before the last world war or at the time the late Emiliano Cortez filed his free patent application. While the Report of Investigation of Investigator Napoleon Dulay dated March 18, 1985 discovered, per its ocular inspection on the subject parcels on October 12, 1984, that the occupants thereof were the children, grandchildren, relatives and in-laws of the late Domingo Samut[75] and that the improvements thereon were introduced by the heirs of Domingo Samut,[76] the Report did not indicate who were the actual occupants of the land in question when Emiliano Cortez filed his free patent application in 1953.

The determination of who were the actual occupants in 1953, as opposed to those who were already in possession of the land at time of the ocular inspection of Investigator Napoleon Dulay in October 12, 1984 and the subsequent confirmatory ocular inspection by Atty. Nicanor Garcia in November, 1996,[77] was crucial inasmuch as it could have corroborated appellant's accusation that Emiliano fraudulently represented himself in his free patent application as the actual possessor and occupant of the subject lots.

Consequently, We agree with the RTC that while the Report dated March 18, 1985 carried the presumption of regularity of investigation, it can no longer prove that fraud was committed by Emiliano when he applied for a free patent application over the subject lots in 1953.[78]

Second, the testimony of appellant's witness Nicanor Guiab, concerning the length of Domingo Samut's possession and occupation of the lots was unreliable. Appellant presented Nicanor to prove that Domingo was already in possession and occupation of the disputed properties long before the last global war or at the time Emiliano filed his free patent application. However, glaring inconsistencies in his testimony cast doubt on his integrity and credibility as a witness. As observed by the trial court:[79]

The plaintiff Republic, to prove that the late Domingo Samut was already in possession and cultivation of the land in question since 1927, presented Nicanor Guiab who knew personally Domingo Samut, he being the husband of his Aunt Feliciana. Thus, he testified as follows:

“Q.

Do you know when did Mr. Domingo Samut commence possessing and occupying the lot Mr. Witness?

A.

1927, sir.

Q.

And during the time Mr. Domingo Samut possessed and occupied the lots in dispute, do you know whether or not some other persons disturbed their possession Mr. Witness?

A.

None Sir.

Q.

And during that time, do you know whether or not there are some other persons claiming the lot in dispute, Mr. Witness?

A.

None, Sir.

Q.

You said Mr. Witness that Mr. Domingo Samut possessed and occupied the parcels of land. Do you know whether or not Mr. Domingo Samut introduced considerable improvements in the lot in dispute?

A.

Yes, Sir. He planted coconut trees, santol trees and others.

Q.

Aside from those trees that Mr. Domingo Samut introduced in the lots in dispute Mr. Witness, did Domingo Samut introduce any other improvements aside from these?

A.

His house, Sir" (t.s.n. February 5, 2004, pp. 7 and 8)

However, on cross-examination said witness Mr. Nicanor Guiab testified, thus:

"Q.

How many years did you know Domingo Samut?

A.

For many years, Sir

Q.

Many years? And it begin in 1927?

A.

Yes, Sir.

Q.

And when were you born?

A.

I cannot tell when I was because I was still then (sic) nurse by my mother, Sir.

Q.

Can you tell us approximately the year. I am asking you the year when you were born?

A.

My uncle then was telling me that I was born in the year 1933”

(t.s.n., March 25, 2004, pp. 7 and 8)

Said witness Mr. Nicanor Guiab, if he was born in the year 1933, must be 71 years old when he testified on February 5, 2004. In fact, when he testified in open Court on said date February 5, 2004, he gave his age as 73 years old, so much that he was not yet born in the year 1927 when he claim (sic) that Domingo Samut was already occupying the land in question.

Consequently, the Court is already in doubt as to the truthfulness of the testimony of Nicanor Guiab who claimed that since 1927, Domingo Samut was already in possession of the land in question to the exclusion of other persons. Besides, his testimony was uncorroborated by other evidence to show that at the time the late Emiliano Cortez filed his Free Patent Application, Domingo Samut was already in possession of the land in question.

Moreover, a review of the testimony of appellant’s second witness, particularly Atty, Nicanor Garcia, an employee of the Department of Environment and Natural Resources (DENR) Legal Division of Tuguegarao City, revealed these observations:

a) Atty. Garcia had no personal knowledge of the qualifications of Emiliano Cortez at the time Emiliano filed his Free Patent Application and the witness cannot thus conclude that Emiliano committed fraud in his application, thusly:[80]

CROSS-EXAMINATION OF ATTY NICANOR GARCIA

ATTY. LOPEZ

Q.

Now. Mr. Witness , did you examine Mr. Cortez in 1955 whether he has the qualifications to own a land. Yes or No?

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ATTY. LOPEZ:

Q.

The reason, because you were not yet with the Bureau of Lands and you have no personal knowledge about Mr. Cortez then, isn't (sic) it?

A.

Yes sir.

Q.

Thank you. And you are in a capacity to say now before the Honorable Court that Mr. Cortez does not have the qualification to own a land, isn't it?

A.

Well, I based my findings on the investigation conducted and they found out that indeed Cortez committed fraud in his application.

ATTY. LOPEZ:

Your Honor, may I ask the witness to just answer the question, Your Honor, not to explain if he is not asked to explain.

COURT:

Okay, just shorten your answer.

WITNESS

Yes, I have the capacity because

ATTY. LOPEZ:

Q.

Thank you. And now the basis of your capacity Mr. Witness that you are saying yes are qualified to evaluate the application of Mr. Cortez was because of the records that you saw?

A.

Yes, sir.

Q.

And that records you saw is the report, alleged report by Mr. Dulay, correct?

A.

Yes, Sir. As well as the

Q.

Thank you. Now, you are therefore saying that the qualifications that you are saying about Mr. Cortez is not based on your personal knowledge, correct?

A.

Based on the documents itself, yes.

Q.

Yes, you know Mr. Witness, let me get yourself clear. Based on the personal knowledge you have no competence to say that Mr. Cortez is disqualified to own a land. Is'nt (sic) it?

A.

Yes sir.

Q.

Yes, that's clear, thank you. Now, you have also no competence to say whether or not Mr. Cortez had fully complied with the requirements, conditions and provisions of the law when he filed his application for Free Patent in 1955. Is'nt (sic) it.

You have no personal knowledge?

A.

Yes, Sir.

Q.

Yes, Also, you have no personal knowledge whether Mr. Cortez is entitled to the issuance of a Free Patent of these two lots including Original Certificate of Title, isn't it?

ATTY LOPEZ:

You don't just nod yourself, you say Yes or No Mr. Witness

WITNESS:

Yes, Sir.

b) the investigatory inspection of Atty. Nicanor Garcia on the subject lots, which confirmed the findings of Investigator Napoelon Dulay that the Samuts were the actual occupants of the disputed properties, was conducted,[81] per Atty. Nicanor Garcia's recollection, only sometime in November, 1996.[82]

c) after a review and examination of the report and findings of land inspector Napoleon Dulay, pursuant to a directive from the DENR Regional Director Leonardo Paat to conduct investigatory inspection thereon, Atty. Nicanor Garcia discovered Free Patent Applications of Emiliano Cortez, Dominador Agustin and Victoriano Agustin over the subject lots.[83] But found no Free Patent Application in the name of Domingo Samut and his heirs over the same property.[84]

In stark contrast to appellant's evidence, defendants'-appellees'/third-party plaintiffs' ownership and possession of the subject pieces of property were sufficiently established by their submission of among, other proofs, the following documentary evidence:

(1) Free Patent Application of Emiliano P. Cortez;[85] (2) OCT No. P-9148 in the name of Emiliano Cortez;[86] (3) TCT No. T-42959 in the name of Antonia Vda de Cortez;[87] (4) Contract of Lease executed between Emiliano Cortez and Joaquin Samut;[88] (5) Tax Declaration on Lot 4602 and 4603 with OCT No. P-9148;[89] (6) Receipt of Payment of Realty Taxes on Lots 4602 and 4603;[90] (7) Letter from the Office of the President dated May 12, 1953;[91] (8) Report of Final Investigation dated May 12, 1953 submitted by Junior Land Inspector Marcelino Hernaez;[92] (9) Report dated June 29, 1955 submitted by Isidro Rosario;[93] (10) Sketch Location Plan of the two (2) lots 4602 and 4603;[94] (11) Notice of Application for Notarized Free Patent of Emiliano Cortez dated June 29, 1955;[95] (12) Approval of Application Succession and Issuance of Patent dated December 5, 1955;[96] (13) Letter dated December 5, 1955 from the Director of Land to the Secretary of Agriculture and Natural Resources;[97] (14) Transmittal Letter dated January 14, 1956 from the Director of Lands through the chief record division addressed to the Registered of Land, Ilagan, Isabela;[98] (15) Adverse Claim on Lot 4602 registered per Order dated May 14, 1957 from the Bureau of Lands Manila;[99] (16) Tax Declaration of Antonia Vda de Cortez on Lot 4602 and OCT No. P-91408 by Assessor of Echague;[100] (17) Tax Declarations of Antonio Vda. De Cortez on Lot 4603 with OCT No. P-91498 by Assessor of Echague;[101] (18) Tax Declaration of Domingo Samut without any title of ownership indicated therein;[102] (19) Declaration of Real Property issued in 1958 by the Provincial Assessor of Ilagan, Isabela to Emiliana Cortez;[103] and (20) Declaration of Real Property issued to Antonia Vda. De Cortez approved by the provincial assessor and transferred by virtue of Extra-Judicial Settlement.[104]

Absent any cogent evidence from appellant to denigrate the disputable inference of regularity in the performance of official duty,[105] We therefore reinforce the validity of defendants-appellees/third-party plaintiffs' free patent

and the corresponding original certificate of title. As the trial court aptly concluded:[106]

In the evidence of the defendant Heirs of Emiliano Cortez, is the Report of Final Investigation dated May 23, 1953 (Exhibit “5”), which reads as follows:

“At the ocular inspection of the land applied for by Gregorio Eloria under his Fpa (sic)-V-9820 and which is the object of the attached deed of sale, the following have been ascertained:

(a)

That Gregorio Eloria has been possessing and cultivating Lots Nos. 4602 and 4603, Cad 210, peacefully and continuously from 1940 to the present;

(b)

That the improvements introduced by him on the premises consists of: plowings, reicefields (sic) and pilapiles (sic) which are still visible on the land;

(c)

That said Gregorio Eloria has been religiously paying his taxes thereon as evidenced by Tax Declaration Nos. 7944 and 7945 as issued by the Provincial Assessor’s Office at Ilagan, Isabela, bearing his name;

(d)

That due financial problem arising from crop failures for the last few years and coupled by his responsibility of supporting a nephew in College, he has decided to sell the land to Mr. Emiliano Cortez in the amount of Eight Hundred Pesos (P800.00) for the whole tract as reimbursement of his expenses thereon;

(e)

That these two parcels of land are found in Cadastral Case No. 15 G.L.R.O Record No. 1065 B.L. Case No. 5, which were declared public land on May 12, 1936 by the Court of First Instance of Isabela;

(f)

That said Emiliano Cortez, altho (sic) a government employee, is a qualified public land applicant. Attached hereto is the permission granted to him by Acting Executive Secretary Marciano Roque of the Office of the President; and

(g)

That the land under consideration is free from claims and conflicts” (Records, p. 657)

The late Emiliano Cortez having bought the rights or interest of Mr. Gregorio Eloria, he became qualified to apply for Free Patent the land in question as shown in Report dated June 29, 1995 (Exhibit “9”) which reads as follows:

“The applicant is a qualified entryman and is not a mere dummy in the acquisition thereof and who is not the holder of 24 hectares of land. That the land was first occupied and cultivated by Gregorio Eloria since 1940 up to May 1, 1953, having cultivated and improved 6 hectares into regular ricefields and pilapiles and the rest is all cleared. That the applicant continued the possession and cultivation over the land since May 22, 1953 up to the present, it being bought by him from Greogiro (sic) Eloria and that taxes to the land has been paid continuously since then up to now” (Record, p. 659)

The Report of Final Investigation dated May 23, 1953 (Exhibit “8”) carries the presumption of regularity in the performance of official function by Public Land Inspector Marcelino Hernaez of the then Bureau of Land when he

conducted an ocular inspection sometime in 1953. Likewise, the Investigation Report dated June 29, 1955 (Exhibit "9") of Public Land Inspector Isidro Rosario carries the presumption of regularity in the performance of duty. The investigation conducted by said Public Land Inspectors Hernaez and Isidro Rosario were conducted in the year 1953 and 1955 when the late Emiliano Cortez filed his Free Patent Application and was under investigation regarding his claim that a certain Gregorio Eloria was the original possessor since 1940 until he bought his rights and interest and continued his occupation over the land in question.

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Hence, there was also an ocular inspection on the land in question in the year 1953 and 1955 to determine the truth about the allegations of the Free Patent Application of Emiliano Cortez (Exhibit "1") and there was nothing stated in the Report of Final Investigation dated May 23, 1953 (Exhibit "8") submitted by Land Inspector Marcelino Hernaez and the Report (Exhibit "9") dated June 29, 1955 submitted by Land Inspector Isidro Rosario showing that the Samut were already in actual possession of the land in question. Neither did the plaintiff Republic present clear and convincing evidence to prove that the late Emiliano Cortez committed fraud and misrepresentation in his Free Patent Application (Exhibit "1"). The evidence presented by the plaintiff, through the testimony of Nicanor Guiab and Atty. Nicanor Garcia do not show, to the satisfaction of the Court, that Domingo Samut was already in possession of the land in question long before the last global war or at the time when Emiliano Cortez filed his application for Free Patent in 1953 or thereabout.

xxx"[107]

In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. "Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." "Preponderance of evidence" is a phrase that, in the last analysis, means probability of the truth. It is evidence that is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[108]

In fine, We also disallow reversion and neither can the Republic's intention to recover be premised on other factors, apart from fraud, as emphasized anew in Republic vs. Roxas, et al.[109]

On Defendants'-Appellees'/

Third-Party Plaintiff's Complaint

We likewise rebuff defendants'-appellees'/third-party plaintiffs' claim for actual damages, exemplary damages and attorney's fees.[110]

As to the amount of actual damages, We find the amount prayed for by defendants to be devoid of foundation. Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. To justify an award of actual damages, there must be competent proof of the actual amount of loss, credence can be given only to claims which are duly supported by receipts.[111]

In its Brief, defendants-appellees/ third-party plaintiffs prayed for the payment of actual damages in the amount of P10,000.00 per year from 1964.[112] However, there was want of evidentiary basis to support the actual amount of damages claimed by defendants.

Moreover, since defendants-appellees/third-party plaintiffs failed to establish their claim for moral damages, they are also not entitled to exemplary damages. Article 2234 of the Civil Code provides:[113]

ART. 2234. While the amount of the exemplary damages need not be proved, the plaintiff must show that he is entitled to moral, temperate or compensatory damages before the court may consider the question of whether or not exemplary damages should be awarded.

xxx

Neither will attorney's fees be granted sans award of exemplary damages and a showing that third-party defendants acted in gross and evident bad faith when they refused to satisfy defendants'-appellees'/third-party plaintiffs' plainly valid, just and demandable claim.[114] As correctly ascertained by the trial court:[115]

Unfortunately, the defendant and third-party plaintiff Cortez failed to present satisfactory evidence to show that third-party defendants acted in gross and evidence bad faith in refusing to vacate the land in question. The third-party defendants are in possession of the land in question in view of the Lease Contract (Exhibit "16") and the Investigation Report (Exhibit "F") recommending the filing of reversion case. xxx

WHEREFORE, premises considered, the APPEAL of the appellant Republic is hereby DENIED and the assailed June 16, 2011 Decision of the Regional Trial Court (RTC), Branch 24 of Echague, Isabela, in Civil Case No. 24-0533 is hereby AFFIRMED in toto.

SO ORDERED.

De Leon, M.M., (Chairperson) and Cruz, S.C., JJ., concur.

[1] G.R. No. 157988 and companion case, December 11, 2013.

[2] Vol. I Folder, Record, pp. 1-4.

[3] See Complaint, Vol. I Folder Record, pp. 1-4.

[4] Vol. I Folder, Record, pp. 79-86.

[5] Id., par. 2, page 79.

[6] Id., Affirmative and Special Defenses, par. 4 page 81.

[7] Id., Affirmative and Special Defenses, par. 6 page 81.

[8] Id., Third Party Complaint, pars. 23, 22, page 84.

[9] Vol. I Folder, Record, Affirmative and Special Defenses, par. 9, page 82.

[10] Id., Special and Affirmative Defense, par. 5, page 118.

[11] Id., Special and Affirmative Defense, par. 6, page 118.

[12] Id., Special and Affirmative Defense, par. 7, page 118-119.

[13] Id., Special and Affirmative Defense, par. 7, page 119.

[14]Id., Answer to the Third-Party Complaint, par. 1, Rollo, page 133.

[15] Id., Answer to the Third-Party Complaint, par. 5, Rollo, page 136.

[16] Vol. I Folder, Record, Answer to the Third-Party Complaint, par. 5, Rollo, page 136.

[17] Id., Order dated August 21, 2001, page 158 “Very glaring in the said dispositive portion is the missing word Injunction after the word preliminary which was inadvertently omitted. Hence, the said Order dated July 10, 2001 is hereby modified to read as follows:

“WHEREFORE, the Court deny the Third-Party Plaintiffs prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction. xxx” See also Motion for Reconsideration, Record pp. 160-165.

[18] Id., Pre-Trial Order, page 176.

[19] Id., Pre-Trial Order, page 196.

[20] Id., See Decision of the Court of Appeals dated April 12, 2002, pp 217-237; See also Motion for Reconsideration, pp. 239-254.

[21] Id., See Decision of the Supreme Court dated February 14, 2005, pp. 444-461.

[22] TSN, February 5, 2004, Record, pp. 4-5.

[23] TSN, February 5, 2004, Record, page 7.

[24] Id., Record, page 7.

[25] Ibid.

[26] Id., Record, page 8.

[27] Ibid.

[28] Id., Record, page 8.

[29] Id., Record, page 9.

[30] Ibid.

[31] Id., Record, pp. 9-10.

[32] TSN, March 25, 2004, Record, page 6.

[33] Id., Record, pp. 8-9.

[34] Id., Record, pp. 9-11.

[35] Id., Record, pp. 11-12.

[36] Id., Record, pp. 13-14.

[37] TSN, March 25, 2004, Record, pp. 14-15.

[38] Id., Record, pp. 20-22.

[39] TSN, October 27, 2006, Record, pp. 4-5.

[40] Id., Record, pp. 5-7, 11.

[41] Id., Record, pp. 13-14.

[42] Id., Record, pp. 14-15.

[43] TSN, November 20 2006, Record, page 19.

- [44] Id., Record, pp. 20-21.
- [45] Vol 1, Record, See Order dated January 17, 2008, page 531; Vol. 1 Folder Order dated February 28, 2008, Record, pp. 534-535; See also Order dated April 15, 2008, Record, pp. 537-538.
- [46] Vol. II Folder, Record, Formal Offer of Documentary Exhibits in Evidence, pp. 543-544.
- [47] TSN, December 3, 2008, pp. 4-5.
- [48] Vol. II Folder, Exhibit “15” Record, page 665.
- [49] Id., pp. 667-668.
- [50] TSN, December 3, 2008, page 14.
- [51] Id., page 14.
- [52] Id., pp. 14-15.
- [53] Id., page 19.
- [54] TSN, December 3, 2008, page 26.
- [55] Id., page 30.
- [56] TSN, April 24, 2009, page 10.
- [57] Id., page 12.
- [58] Id., page 24.
- [59] Id., page 26.
- [60] Id., page 27.
- [61] TSN, July 7, 2009, pp. 6-7.
- [62] Id., pp.8-10.
- [63] Id., pp. 10-13.
- [64] Volume II Folder, Record, Formal Offer of Evidence for Defendants and 3rd Party Plaintiffs Heirs of Emiliano Cortez pp. 644-647.
- [65] Rollo, page 126.
- [66] Vol. II Folder, Record, Notice of Appeal of Third-Party Defendant Chito Singson, pp. 795-796; See also Notice of Appeal of Plaintiff Record, pp. 800; 804-805.
- [67] CA-G.R. CV No. 97434, through Justice Jose C. Reyes, Jr., with Justices Mario V. Lopez and Socorro B. Inting, concurring; Rollo, page 249.
- [68] First page of Rollo Folder.
- [69] Rollo, page 198.
- [70] Vol. I Folder, Record, See Complaint page 4 “xxx 1. Declaring Free Patent No. V-24082 and Original Certificate No. P-9140 in the name of Emiliano Cortez as well as now Transfer Certificate of Title No. T-42959 issued to Antonia Gaffud Vda.de Cortez covering the same lots be declared null and void ab initio;

2.Ordering public defendant Register of Deeds to cancel Transfer Certificate of Title No. T-42959 in the name of Antonia Gaffud Vda. de Cortez

xxx.” (Underscoring Supplied)

[71] Id., See Complaint, page 3.

[72] Com. Act No. 141, as amended; See also Brief for Plaintiff-Appellant, Rollo, page 92.

[73] See Brief for the Plaintiff-Appellant, Rollo, pp. 200-202.

[74] Santos v. National Statistics Office, G.R. No. 171129, April 6, 2011.

[75] Vol. II Record, See Report of Investigation, page 553.

[76] Id., See Report of Investigation, page 552.

[77] TSN, October 27, 2006, page 13; TSN, August 24, 2007, pp. 8-9.

[78] See Decision dated June 16, 2011, Rollo, page 121.

[79] Rollo, pp. 118-119.

[80] TSN, November 20, 2006, pp. 11-14.

[81] TSN, October 27, 2006, pp. 13-14.

[82] TSN, August 24, 2007, pp. 8-9.

[83] TSN, November 20, 2006, pp. 18-19.

[84] Id., page 19.

[85] Vol. II Folder, Exhibit “1”, Record, page 648.

[86] Id., Exhibit “2”, Record, page 811.

[87] Id., Exhibit “3”, Record, page 649.

[88] Id., Exhibit “4”, Record, page 651.

[89] Id., Exhibits “5” and “6”, Record, pp. 652-653.

[90] Id., Exhibit “6”, Record, pp. 654-655.

[91] Id., Exhibit “7”, Record, page 656.

[92] Id., Exhibit “8”, Record, page 657.

[93] Vol. II Folder, Exhibits “9” and “9-A”, Record, pp. 658-659

[94] Id., Exhibit “9-B”, Record, page 659-B.

[95] Id., Exhibit “10”, Record, page 660.

[96] Vol. II Folder, Exhibit “11” Record, page 661.

[97] Id., Exhibit “12”, Record, page 662.

[98] Id., Exhibit “13”, Record, page 663.

[99] Id., Exhibit “14”, Record, page 664.

[100] Id., Exhibit “18”, Record, page 670.

[101] Id., Exhibit “19”, Record, page 671.

[102] Id., Exhibit “20”, Record, page 672.

[103] Id., Exhibit “21”, Record, page 673.

[104] Id., Exhibit “22”, Record, page 674.

[105] Section 3 (m), Rule 131, Revised Rules on Evidence.

[106] Rollo, pp. 119-121.

[107] Rollo, page 122.

[108] Heirs of Jose Lim v. Julieta Lim, G.R. No. 172690, March 3, 2010, citing Perfecta Cavile, Jose de la Cruz and Rural Bank of Bayawan, Inc. v. Justina Litanía-Hong, et al., G.R. No. 179540, March 13, 2009, citing Go v. Court of Appeals, 403 Phil. 883, 890-891 (2001).

[109] G.R. No. 157988 and companion case, December 11, 2013

[110] See Brief for the Defendants and Third-Party Plaintiffs-Appellees, Rollo, page 183, “WHEREFORE, it is respectfully prayed that the judgment rendered by the Trial Court be AFFIRMED with MODIFICATION by ordering third-party defendant-appellants heirs of Domingo/Antonia Samut and Chito Singson to pay actual damages of P10,000.00 per year from 1964, exemplary damages of P10,000.00 and attorney's fees of P200,000.00.” (Emphasis Supplied)

[111] Leticia Tan et al. v. OMC Carriers, Inc. et al. G.R. No. 190521, January 12, 2011 citing Viron Transportation Co., Inc. v. Delos Santos, G.R. No. 138296, November 22, 2000, 345 SCRA 509, 519, citing Marina Properties Corporation v. Court of Appeals, G.R. No. 125447, August 14, 1998, 294 SCRA 273.

[112] Rollo page 183.

[113] See Decision dated June 16, 2011, “Likewise moral damages may be recovered when there is satisfactory evidence of the psychological and mental trauma actually suffered by a party (del Rosario vs. Court of Appeals, 267 SCRA 158). Moral damages not being recoverable in this case, exemplary damages cannot also be recovered (PNB vs. CA, 266 SCRA 136); Espino v. Spouses Bulut, G.R. No. 183811, May 30, 2011.

[114] Gonzales et al. v. Camarines Sur Electric Cooperative Inc., et al. G.R. No. 181096, March 6, 2013, “As regards attorney’s fees, the Civil Code provides that the award shall be given to the claimant if exemplary damages are awarded; or if the defendant acted in gross and evident bad faith in refusing to satisfy the former’s plainly valid, just and demandable claim.”

[115] Rollo, page 126.

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