

**ROSA CRUZ, CELEDONIA CABRERA AND LEONCIA CABRERA,
PETITIONERS, VS. THE HON. PEDRO C. NAVARRO, JUDGE OF THE
COURT OF FIRST INSTANCE OF RIZAL (BRANCH II, PASIG), ALFONSO
SANDOVAL ...**

G.R. No. L-27644. November 29, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

Before this Court is a petition for certiorari to review the orders of the Court of First Instance of Rizal (Branch II, Pasig) dated April 24, 1967 and May 25, 1967 dismissing the petition below of Rosa Cruz, Celedonia Cabrera and Leoncia Cabrera for review of the decree of registration issued in favor of the private respondent spouses Alfonso Sandoval and Rosa Ruiz in Land Registration Case 5725, LRC Record N-30582.

Sometime in 1966 the respondent Alfonso Sandoval filed with the Court of First Instance of Rizal (Branch II, Pasig) an application for registration (under Act 496) of five (5) parcels of land with an aggregate area of four and one-half hectares, more or less, situated in the municipality of Antipolo, province of Rizal. Under date of August 1, 1966 the respondent Judge Pedro C. Navarro issued a notice of initial hearing which reads:

"To the Solicitor General, the Director of Lands, the Director of Public Works, the Director of Forestry, the Officer-in-Charge, Parks and Wildlife Office, Manila; the District Land Office No. 7, 234 Tanduary St., San Miguel, Manila; the Reforestation Administration, Diliman, Quezon City; the Provincial Governor, the Provincial Fiscal, the Provincial Treasurer, the District Engineer, Pasig, Rizal; the Municipal Mayor, Antipolo, Rizal; Nicolas Magtaos, Maximina Aquino, Felipe Aquino, Pedro Manuel, Roque Samson, Irineo Galang, Angel Zapanta, Benjamin Aquino, Ramon Masaquel, Anastacia Esguerra, Juan Santos, Felipe Aquino, Leonor Sto. Domingo, Mayamot, Antipolo, Rizal; Rosa Ruiz, 380 Dr. Sixto Antonio St., Maybunga, Pasig, Rizal; AND TO ALL WHOM IT MAY CONCERN: xxx"

Only the Director of Lands filed an opposition, which was however subsequently withdrawn on the ground that "On the basis of the findings made in the investigation conducted by this Office on the land involved therein, we have come to the conclusion that our opposition thereto cannot be sustained."

On December 1, 1966, no oppositor having appeared, the court a quo, after a hearing ex parte, declared the respondent spouses the owners of the five parcels of land. On January 3, 1967 the court ordered the issuance of the corresponding decree of registration.

On March 20, 1967 the petitioners filed a "Petition for Review of Decree of Registration" in the court below alleging, inter alia, the following:

"3.

That in said application, respondent ALFONSO SANDOVAL willfully and falsely made it appear that he is the absolute owner of the three parcels of land therein described as Lots 1, 2, and 3 of survey plans Psu-219557

and 219558, Kamandag, Mayamot, Antipolo, Rizal, that he is in possession of said parcels of land, and that there are no other persons who have any estate or interest, legal or equitable, over the same, when, in truth and in fact, he was never the owner, nor possessor, of the said parcels of land, because the petitioners herein are the real owners and possessors thereof as described in the succeeding paragraphs hereof;

“4.

That on account of the actual, extrinsic fraud and the suppression of the truth employed by respondent ALFONSO SANDOVAL as described in the immediately preceding paragraph hereof, this Court, not knowing it, rendered in said case a decision, dated December 1, 1966, declaring the respondents to be the registered owners of aforementioned parcels of land and, on January 3, 1967, ordered issuance of the decree of registration; xxx;

“5.

That actually petitioner ROSA CRUZ is the absolute owner and possessor of, and/or the person having an irrevocable vested interest in, aforementioned Lots 1 and 3 for the reason that said lots form a part of said petitioner's Lot 25, Plan Pau-136628, which was originally a public land but to which said petitioner had perfected a homestead right long before respondents secured aforementioned decrees and certificates of title, her homestead application therefor having been duly approved by the Bureau of Lands and she having fully complied with all requirements for the acquisition of a homestead and possessed and cultivated the same as her private property;

“6.

That petitioner CELEDONIA CABRERA is also the actual, absolute owner and possessor of, and/or the person having an irrevocable vested interest in, aforementioned Lot 1 for the reason that said lot forms a part of said petitioner's Lot 26, Psu-136628, which was originally a public land but to which said petitioner had perfected a homestead right long before respondents secured aforementioned decree and certificate of title, her homestead application therefor having been duly approved by the Bureau of Lands and she having fully complied with all requirements for the acquisition of a homestead and possessed and cultivated the same as her private property.

“7.

That petitioner LEONCIA CABRERA is likewise the actual, absolute owner and possessor of, and/or the person having an irrevocable vested interest in, aforementioned Lot 2 for the reason that said lot forms a part of said petitioner's Lot 28, Psu-136628, which was originally a public land but to which said petitioner had perfected a homestead right long before respondents secured aforementioned decree and certificate of title, her homestead application therefor having been duly approved by the Bureau of Lands and she having fully complied with all requirements for the acquisition of a homestead and possessed and cultivated the same as her private property;

“8.

That the parcels of land presently covered by aforementioned certificates of title in the name of the respondents

have not been transferred to an innocent purchaser for value or to any other transferee; xxx"

On April 3, 1967 the respondent spouses moved to dismiss the petition below on the grounds (a) that if the lands in question were originally public lands, then the proper oppositor should be the Director of Lands; and (b) that the imputed fraud does not constitute extrinsic fraud.

On April 24, 1967, acting on the petition, but without receiving any evidence in the premises, the respondent Judge issued an order stating that "the Court... finds the petition for review to be without sufficient merit and therefore DENIES the same.

The petitioners then filed a "Motion for New Trial and/or Reconsideration" of the mentioned order, but this was denied on May 25, 1967, in the following words:

"After going over the record of the case, the Court resolves to deny the motion on the following grounds: First, this Court found and accordingly adjudged that applicant Alfonso Sandoval had complied with all the conditions and requisites essential to a government grant pursuant to the provisions of Sub-Section B, Section 48 of Commonwealth Act No. 141 as amended by Republic Act No. 1942; and second, petitioners' claim of having complied with all the requisites for acquiring a home-stead patent over these lots cannot prevail over the finding of this Court that the same lots are private lands over which the Bureau of Lands has no control or authority to cede, transfer or convey in favor of homestead applicants."

On June 15, 1967 the petitioners filed with this Court the instant petition for certiorari, in which they allege (1) that they had legal personality to file the petition for review below because even if the properties involved were originally public lands, these ceased to be such upon compliance by them with the requirements essential to a homestead grant; (2) that they had sufficiently alleged the existence of actual and extrinsic fraud in their petition below; and (3) that their present petition for certiorari, rather than an appeal, contrary to the private respondents' contention, is proper because the questioned orders of dismissal are a nullity.

We find merit in the posture taken by the petitioners.

- In *Mesina vs. Pineda vda. de Souza*[1] this Court, citing *Susi vs. Razon*,[2] held that once a homestead applicant has complied with all the conditions essential to a Government grant, he acquires "not only a right to a grant, but a grant of the Government." Thus:

"xxx where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly, with a right to a certificate of title to said land under the provisions of Chapter VII of Act No. 2874, amending Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 141), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the courts -- an application therefor being sufficient under the provisions of Section 47 of Act No. 2874 (reproduced as Section 50, Commonwealth Act No. 141)."

In *Nieto vs. Quines*[3] this Court affirmed the doctrine in these words:

"As established during the trial and found by the trial court, Bartolome Quines had been in the continuous and peaceful possession of Lot No. 3044 from the time his homestead application was approved in 1918 up to 1953 when he was forcibly ejected therefrom by Arturo Nieto. As a homestead applicant, he religiously complied with all the requirements of the Public Land Act and, on August 29, 1930, a homestead patent was issued in his favor. Considering the requirement that the final proof must be presented within 5 years from the approval of the homestead application (sec. 14, Public Land Act), it is safe to assume that Bartolome Quines submitted his final proof way back yet in 1923 and that the Director of Lands approved the same not long thereafter or before the land became the subject of cadastral proceedings in 1927. Unfortunately, there was some delay in the ministerial act of issuing the patent and the same was actually issued only after the cadastral court had

adjudicated the land to Maria Fiorentino. Nevertheless, having complied with all the terms and conditions which would entitle him to a patent, Bartolome Quines, even without a patent actually issued, has unquestionably acquired a vested right in the land and is to be regarded as the equitable owner thereof."

It is our view that the petitioners have amply alleged below such real, legally protected interest over the parcels in question sufficient to clothe them with the necessary personality to question, independently of the Director of Lands, the validity of the grant of title over the said properties to the private respondents.

- Under section 38 of the Land Registration Act (Act 496), a review of the decree of registration is warranted when the following conditions concur: (a) the petitioner has a real or dominical interest or right, that is, he is the owner of the land ordered registered in the name of the respondent, or the petitioner's lien or interest in the land does not appear in the decree or title issued in the name of the applicant; (b) the petitioner has been deprived thereof or his lien or interest thereon was omitted, through fraud; (c) the property has not yet been transferred to an innocent purchaser for value; and (d) the petition is filed within one year from the issuance of the decree.[4]

The fraud that would justify review of a decree of registration must be actual, that is to say, there must have been an intentional concealment or omission of a fact required by law to be stated in the application or a willful statement of a claim against the truth, either of which is calculated to deceive or deprive another of his legal rights.[5] The fraud must likewise be extrinsic. And it is extrinsic when it is employed to deprive a party of his day in court, thereby preventing him from asserting his right to the property registered in the name of the applicant.[6]

In our opinion the petition below sufficiently alleged facts which if proved would constitute the kind of fraud proscribed by the Land Registration Act. This fraud consists of the allegedly intentional omission by the respondent Sandoval to properly inform the court a quo that there were persons (the petitioners) in actual possession and cultivation of the parcels in question, with the result that the court as well as the Chief of the Land Registration Commission were denied the exercise of their authority to require the sending of specific individual notices of the pendency of the questioned application in accordance with the provisions of sections 31 and 32 of the Land Registration Act.[7] Thus, it is to be noted that the "Notice of Initial Hearing," supra, did not contain a specific mention of the names of the petitioners, but only those of public officials and private individuals who evidently were not interested in the outcome of the questioned application.

- Upon the foregoing disquisition, the Court is persuaded that the petitioners Rosa Cruz, Celedonia Cabrera and Leoncia Cabrera have amply alleged in their petition below the concurrence of the requirements prescribed by section 38 of the Land Registration Act (Act 496) that would warrant a review of the decree of registration. They have alleged sufficient facts to show (a) that they have a dominical right in the parcels of land subject of the decree of registration, and (b) that they have been deprived thereof thru actual extrinsic fraud. That the parcels have not yet been transferred to any innocent purchaser for value, and that the petition below was filed within one year from the issuance of the decree of registration, are not disputed.

It then behooved the court a quo to accord the petitioners a full-blown hearing -- to which they were entitled as part of the due process guarantee[8] -- at which they could present all available evidence to prove their allegations. This hearing was denied them.

- On the matter of whether the questioned orders a quo should have been elevated to this Court for review by way of appeal rather than by writ of certiorari, this Court is of the view that, within the constraints of the particular environmental milieu disclosed by the record, the remedy chosen by the petitioners is proper.

Under the provisions of R.A. 5440 which amended section 17 of the Judiciary Act of 1948 (R. A. 296) on September 9, 1968, this Court has "exclusive jurisdiction to review, reverse, modify or affirm on certiorari as the

law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in all cases in which only errors or questions of law are involved xxx".

Although the petitioners have apparently treated their petition before this Court as a special civil action for certiorari, the substantive issues raised therein are, fundamentally, matters involving pure questions of law, for which reason this Court deemed it proper to treat the instant petition as an appeal by way of certiorari under the provisions of R.A. 5440, Inasmuch as when the instant petition was filed with this Court on June 15, 1967 the reglementary period for appeal prescribed by section 1, Rule 42 in relation to section 3, Rule 41 of the Revised Rules of Court had not yet elapsed, the petition at bar is, therefore, properly cognizable by this Court.

ACCORDINGLY, the orders of the court a quo of April 24 and May 25, 1967 are set aside, and this case is hereby ordered remanded to the said court for further proceedings in accordance with law and consistently with the views herein expressed. No costs.

Makalintal, C.J., Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] 108 Phil. 251.

[2] 48 Phil. 424.

[3] G.R. No. L-14634, Jan. 28, 1961, 1 SCRA 230; cf. Miguel vs. Court of Appeals, G.R. No. L-20274 , Oct. 30, 1969, 29 SCRA 779.

[4] Rublico vs. Orellana, G.R. No. L-26582, Nov. 28, 1969, 30 SCRA 511; Apurado vs. Apurado, 26 Phil. 581. Sec. 38 of Act 496 provides, inter alia: "Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decree: subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest xxx"

[5] Nicolas vs. Director of Lands, G.R. No. L-19147-48, Dec. 28, 1963, 9 SCRA 935; Estiva vs. Alvero, 37 Phil. 498; Grey Alba vs. De la Cruz, 17 Phil. 58.

[6] Frias vs. Esquivel, G.R. No. L-17366, July 31, 1962, 5 SCRA 774; Sterling Investment Corp. vs. Ruiz, G.R. No. L-30694, Oct. 31, 1969, 30 SCRA 318.

[7] Section 31 provides, inter alia: "Upon receipt of the order of the court setting the time for initial hearing of the application from the clerk of First Instance, the Chief of the General Land Registration Office shall cause a notice thereof to be published twice, in successive issues of the Official Gazette, in the English language. The notice shall be issued by order of the court, attested by the Chief of the General Land Registration Office, and shall be in form substantially as follows:

"REPUBLIC OF THE PHILIPPINES

'COURT OF FIRST INSTANCE, PROVINCE OF.....

'Land Registration Case No. G.L.R. O. Record No.

'NOTICE OF INITIAL HEARING

'To (here insert the names of all persons appearing to have an interest and the adjoining owners so far as known), and to all whom it may concern: xxx"

Section 32 recites, inter alia: "The return of said notice shall not be less than twenty nor more than one hundred and twenty days from date of issue. The Chief of the General Land Registration Office shall also within seven days after publication of said notice in the Official Gazette, as hereinbefore provided, cause a copy of the notice to be mailed to every person named therein whose address is known. xxx The court may also cause other or further notice of the application to be given in such manner and to such person as it may deem proper. The court shall, so far as it deems it possible, require proof of actual notice to all adjoining owners and to all persons who appear to have interest in or claims to the land included in the application. Notice to such persons by mail shall be by registered letter if practicable. xxx"

[8] Minlay vs. Sandoval and Ruiz, G.R. No. L-28901, Sept. 4, 1973 (per Fernando, J.), and the cases cited therein.

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