

**HILARIO RAMIREZ AND VALENTINA BONIFACIO, PETITIONERS, VS.
HONORABLE COURT OF APPEALS, FRANCISCA MEDINA, MATILDE
MARTIN, EMILIO MARTIN, DELFIN GUINTO, TEOFILO GUINTO,
PRUDENCIO G...**

G.R. No. L-38185. September 24, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Court of Appeals which affirmed in toto the decision of the then Court of First Instance of Rizal rendered in the petition for review of the decree of registration issued in Land Registration Case No. N-2597, L.R.C. Record No. N-17939.

On September 15, 1959, petitioners-spouses Hilario Ramirez and Valentina Bonifacio filed an application for registration of a parcel of riceland in Pamplona, Las Pinas, Rizal. After notice and publication, nobody appeared to oppose the application. An order of general default was issued and the court allowed the petitioners to present evidence in support of their claim. Thereafter, the petitioners presented parol evidence that they acquired the land in question by purchase from Gregoria Pascual during the early part of the American regime but the corresponding contract of sale was lost and no copy or record of the same was available.

On January 30, 1960, the court ordered the issuance of the decree of registration and consequently, Original Certificate of Title No. 2273 of the Registry of Deeds of Rizal was issued in the petitioners' names.

On March 30, 1960, the private respondents Francisca Medina, Basilio Martin, Matilde Martin, Delfin Guinto, Teofilo Guinto, Prudencio Guinto and Margarita Guinto, petitioners' nephews and nieces, filed a petition to review the decree of registration on the ground of fraud. The private respondents based their claim to the land on the following allegations: that they are the legal heirs of the deceased Agapita Bonifacio who died intestate on March 11, 1936; that Valentina Bonifacio is a sister of the deceased Agapita Bonifacio, they being the children of one Gregoria Pascual; that Gregoria Pascual previously owned the land in question as evidenced by Tax Declaration No. 6611 of Las Pinas, Rizal issued on December 8, 1920; that Agapita Bonifacio acquired the property in question by purchase from Gregoria Pascual for which reason Tax Declaration No. 8777 was issued in her name on May 21, 1928; that Gregoria Pascual during her lifetime, from 1916, possessed the said property in the concept of owner, publicly and uninterruptedly, which possession was continued by Agapita Bonifacio in 1928; that in 1938 respondents obtained a loan of P400.00 from the petitioners which they secured with a mortgage on the land in question by way of antichresis; that for this reason, Tax Declaration No. 8777 was cancelled and substituted by Tax Declaration Nos. 9522 and 2385 issued in the names of the petitioners; that, thereafter, the petitioners began paying taxes on the land; that after several attempts to redeem the land were refused by the petitioners, the respondents filed a complaint in the Court of First Instance of Pasay City docketed as Civil Case No. 272-R for the recovery of the possession and ownership of the said property; that when they learned of the issuance of the certificate of title to the land in the petitioners' names, they also filed the instant

petition for review. The previous complaint, Civil Case No. 272-R, was subsequently dismissed on a joint petition filed by the parties after they agreed to have the determination of the question of ownership resolved in the registration proceedings.

In their answer, the spouses Ramirez denied the material allegations of the petition, they based their claim to the land on two deeds of sale allegedly executed on April 15, 1937 and April 23, 1937 which they allegedly found accidentally in March 1960.

After trial, the court found the deeds of sale spurious. It further found that the respondents took possession of the land as owners after the death of Agapita Bonifacio and in 1938, mortgaged it to the spouses Ramirez to secure the payment of a loan in the amount of P400.00. It was agreed that the respondents could not redeem the property within a period of five years and that the petitioners would take possession of the land, enjoy its fruits, and pay the land taxes thereon. The written agreement was kept by the petitioners as creditors. The trial court appreciated the fact of the petitioners' failure, despite formal request, to produce the document in court in favor of the respondents. Finding the claims of the herein respondents sustained by the evidence, it ordered the reconveyance of the property in the following manner:

"WHEREFORE, judgment is hereby rendered in favor of petitioners and against applicants as follows:

- 1) Setting aside its decision dated December 28, 1959 insofar as it found and declared applicants to be the owners of the parcel of land described in Exhibits A, B and C and insofar as it ordered the registration thereof in their names;
- 2) Declaring the petitioners, all Filipinos, all of legal age, and all residents of Ligas, Bacoor, Cavite, to be the true and absolute owners pro indiviso of the said parcel of land described in Exhibits A, B and C in the following proportions:
 - a. Francisca Medina, married to Tomas de Leon, one-third (1/3) thereof;
 - b. Emilio Martin, married to Dolores Antonio, and Matilde Martin, married to Federico Torres, one-third (1/3) thereof;
 - c. Teofilo Guinto, married to Rocila de la Cruz, Delfin Guinto, married to Gregoria Pamaran, Prudencio Guinto, married to Ana Guinto, and Margarita Guinto, married to Felix Calacala, one-third (1/3) thereof;
- 3) Ordering the registration of the said parcel of land described in Exhibits A, B and C in the names of petitioners;
- 4) Setting aside its order for the issuance of the decree of registration in favor of applicants dated January 30, 1959, and ordering the issuance of the decree of registration in the names of petitioners;
- 5) Cancelling Original Certificate of Title No. 2273 of the Register of Deeds of Rizal in the names of applicants and the issuance in lieu thereof of another original certificate of title in the names of petitioners in the proportion of their ownership of the property as stated in paragraph 2 above;
- 6) Ordering applicants to pay P3,000.00 to petitioners as and for attorney's fees;
- 7) Ordering applicants to pay the costs of this suit."

The decision was affirmed by the Court of Appeals. On a motion for reconsideration filed by the petitioners, the same appellate court, but with a new member, promulgated a resolution setting aside the original decision. On a motion for reconsideration filed by the private respondents, this resolution was set aside and the original decision was reinstated.

The petitioners went to this Court in a petition for review on certiorari with the following questions:

ONE - HAS THE COURT OF FIRST INSTANCE, ACTING AS A LAND REGISTRATION COURT, THE JURISDICTION TO GIVE DUE COURSE TO A PETITION FOR REVIEW OF DECREE UNDER SEC. 38 OF ACT 496 AND TO RE-OPEN THE ORIGINAL PROCEEDINGS WHEN THE PETITION IS ACTUALLY ONE OF RECONVEYANCE AND NOT BASED ON ACTUAL OR EXTRINSIC FRAUD?

TWO - DOES SEC. 38 OF ACT NO. 496 APPLY ON ALL FORES (SIC) TO ORIGINAL LAND REGISTRATION PROCEEDINGS HAD UNDER PARAGRAPH B, SECTION 48 OF COM. ACT NO. 141 AS AMENDED BY REP. ACT NO. 1942 WHEREIN THE LAND INVOLVED IS PUBLIC AGRICULTURAL LAND?

THREE - HAS THE COURT OF FIRST INSTANCE, ACTING AS A LAND REGISTRATION COURT, THE POWER AND AUTHORITY TO VEST TITLE ON THE LAND INVOLVED TO HEREIN PRIVATE RESPONDENTS AND ORDER EVEN ITS PARTITION AMONGST THEM IN THE FACT OF THE ADMITTED FACT THAT THE LAND IS IN ACTUAL POSSESSION OF PETITIONERS WHILE PRIVATE RESPONDENTS HAD NOT POSSESSED THE SAME AT ALL?

FOUR - DO THE PRIVATE RESPONDENTS HAVE THE LEGAL CAPACITY AND QUALIFICATION TO ACQUIRE AND BE VESTED BY THE COURT WITH TITLE TO THE LAND IN QUESTION?

We find the petition without merit.

The first question does not warrant favorable consideration. The issue was submitted to the appellate court and in our opinion, correctly resolved therein. The Court of Appeals stated:

"xxx The petition alleged that 'the applicants Hilario Ramirez and Valentina Bonifacio willfully and fraudulently suppressed the facts that the petitioners are the legal and rightful owners of the ricefield in question and that they possess the said ricefield merely as antichretic creditors as security for the loan of P400.00; that the applicants are guilty of fraudulent misrepresentation and concealment when they declared in their application, in the case at bar, that no other person had any claim or interest in the said land.' These we believe are sufficient allegations of extrinsic fraud.

"In the applicant's application for registration, which followed the form required by the Land Registration Act, the applicants alleged that 'to the best of our knowledge and belief, there is no mortgage or incumbrance of any kind whatsoever affecting said land, nor any other person having any estate or interest therein, legal or equitable, in possession, remainder, reversion or expectancy.' This allegation is false and made in bad faith, for, as We have found, the applicants are not the owners of the land sought to be registered and they are in possession thereof only as antichretic creditors."

The averments in the petition for review of the decree of registration constitute specific and not mere general allegations of actual and extrinsic fraud. Competent proof to support these allegations was adduced. We find no compelling reason to disturb the findings of the two courts below.

The petitioners in this case did not merely omit a statement of the respondents' interest in the land. They positively attested to the absence of any adverse claim therein. This is clear misrepresentation. The omission and concealment, knowingly and intentionally made, of an act or of a fact which the law requires to be performed or recorded is fraud, when such omission or concealment secures a benefit to the prejudice of a third person (*Estiva v. Alvero*, 37 Phil. 497).

In the case of *Libundan v. Palma Gil* (45 SCRA 17), this Court held:

The purpose of the law in giving aggrieved parties, deprived of land or any interest therein, through fraud in the registration proceedings, the opportunity to review the decree is to insure fair and honest dealing in the registration of land. But the action to annul a judgment, upon the ground of fraud, would be unavailing unless the

fraud be extrinsic or collateral and the facts upon which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered. Extrinsic or collateral fraud, as distinguished from intrinsic fraud, connotes any fraudulent scheme executed by a prevailing litigant 'outside the trial of a case against the defeated party, or his agents, attorneys or witnesses, whereby said defeated party is prevented from presenting fully and fairly his side of the case.' But intrinsic fraud takes the form of 'acts of a party in a litigation during the trial, such as the use of forged instruments or perjured testimony, which did not affect the presentation of the case, but did prevent a fair and just determination of the case.

Thus, relief is granted to a party deprived of his interest in land where the fraud consists in a deliberate misrepresentation that the lots are not contested when in fact they are, or in applying for and obtaining adjudication and registration in the name of a co-owner of land which he knows had not been allotted to him in the partition, or in intentionally concealing facts, and conniving with the land inspector to include in the survey plan the bed of a navigable stream, or in willfully misrepresenting that there are no other claims, or in deliberately failing to notify the party entitled to notice, or in inducing him not to oppose an application, or in misrepresenting about the identity of the lot to the true owner by the applicant causing the former to withdraw his opposition. In all these examples the over-riding consideration is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court or from presenting his case. The fraud, therefore, is one that affects and goes into the jurisdiction of the court.

The second question assigned as an error must also be resolved against the petitioners.

Section 122 of Act No. 496 otherwise known as the Land Registration Act provides:

SEC. 122. Whenever public lands in the Philippine Islands belonging to the Government of the United States or to the Government of the Philippine Islands are alienated, granted, or conveyed to persons or the public or private corporations, the same shall be brought forthwith under the operation of this Act and shall become registered lands. It shall be the duty of the official issuing the instrument of alienation, grant, or conveyance in behalf of the Government to cause such instrument before its delivery to the grantee, to be filed with the register of deeds for the province where the land lies and to be there registered like other deeds and conveyances, whereupon a certificate shall be entered as in other cases of registered land, and an owner's duplicate certificate issued to the grantee. The deed, grant, or instrument of conveyance from the Government to the grantee shall not take effect as a conveyance or bind the land, but shall operate only as contract between the Government and the grantee and as evidence of authority to the clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and affect the land, and in all cases under this Act, registration shall be made in the office of the register of deeds for the province where the land lies. The fees for registration shall be paid by the grantee. After due registration and issue of the certificate and owner's duplicate, such land shall be registered land for all purposes under this Act.

The law is clear. We can apply it to the facts without need for judicial interpretation. Once the deed, grant, or instrument of conveyance of public land is registered with the Register of Deeds and the corresponding certificate and owner's duplicate title is issued, such land is deemed registered land. It is brought within the scope and operation of the Land Registration Law. This is the doctrine laid down by this Court in a long line of cases. (See *Heirs of Deogracias Ramos v. Court of Appeals*, 139 SCRA 295; *Lahora v. Dayanghirang*, 37 SCRA 346; *Ramirez v. Court of Appeals*, 30 SCRA 297; *Director of Lands v. Jugado*, 2 SCRA 32; *Nelayan v. Nelayan*, 109 Phil. 183; *Republic v. Heirs of Carle*, 105 Phil. 1227; *El Hogar Filipino v. Olviga*, 60 Phil. 17; *Manolo v. Lukban*, 48 Phil. 973). The land in this case having been registered and covered by an original certificate of title issued by the Register of Deeds of Rizal, it is within the provisions of the Land Registration Act. Thus, the decree of registration granted by the lower court in favor of the petitioners may be reviewed on the ground of actual and

extrinsic fraud pursuant to Section 38 of the same Act.

There is likewise no merit in the third assigned error. While there was an admission that the petitioners have been in actual possession of the disputed land since 1938, it was made to show and prove the fact that the petitioners are only antichretic creditors. The respondents never admitted that they have not possessed the land at all. On the contrary, they alleged that they and their predecessors-in-interest namely Gregoria Pascual and Agapita Bonifacio have been in possession of the land since time immemorial and that the petitioners were placed in possession of the land pursuant to a contract of antichresis.

The court below found that the petitioners are merely antichretic creditors. This finding and its factual bases were affirmed by the Court of Appeals. On the basis of the evidence supporting this conclusion, this finding is binding on us as it is not our duty to weigh evidence on this point all over again. This court has on several occasions held that the antichretic creditor cannot ordinarily acquire by prescription the land surrendered to him by the debtor (*Trillana v. Manansala, et al.*, 96 Phil. 865; *Valencia v. Acala*, 42 Phil. 177; *Barreto v. Barreto*, 3 Phil. 234). The petitioners are not possessors in the concept of owner but mere holders placed in possession of the land by its owners. Thus, their possession cannot serve as a title for acquiring dominion (See Art. 540, Civil Code).

The fourth issue raised by the petitioners is answered by a referral to the detailed factual findings and conclusions of the trial court. Ten pages of the record on appeal (Record on Appeal, CA-G.R. No. 40425-R, pp. 56-66) state in convincing detail the portion of the trial court's decision which support its conclusion that Hilario Ramirez and Valentina Bonifacio are not the owners of the disputed land and have no registrable right over it and that the respondents herein have established their ownership by a strong preponderance of evidence. The respondents were declared the true and real owners and entitled to registration in their names. The final resolution of the Court of Appeals affirmed the trial court's decision in toto. We see no reversible error in this finding.

The argument of laches is explained and countered by the close relationship of the parties and the nature of a contract of antichresis. The private respondents are nephews and nieces, with their spouses, of the petitioners. Moreover, there is evidence to show that long before the filing of the cases, there had been attempts to recover the property.

In view of the foregoing, we are constrained to affirm the appellate court's decision. We note, however, that in spite of the finding of an existing contract of antichresis between the parties, the two courts below did not order the payment of the principal amount of mortgage. Under Article 2136 of the Civil Code, the debtor cannot reacquire the enjoyment of the immovable without first having totally paid what he owes the creditor.

WHEREFORE, the decision appealed from is hereby **AFFIRMED** with a modification that the respondents are ordered to pay the petitioners the amount of P400.00 as principal for the contract of antichresis, the fruits obtained from the possession of the land having been applied to the interests on the loan.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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