

ANTONIO PIÑERO, JR., EMMA BERNAD (ASSISTED BY HER HUSBAND NORBERTO BERNAD) AND FORTUNATO PIÑERO, PETITIONERS-APPELLEES, VS. THE DIRECTOR OF LANDS, SEGUNDO M. REYES, IN HIS CAPAC...

G.R. No. L-36507. June 14, 1974

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal by the Solicitor General from the decision of the Court of First Instance of Zamboanga del Norte in its Civil Case No. 1128, granting the writ of prohibition prayed for by appellees against the appellant Director of Lands, the Provincial Land Officer of the same province and other subordinate officials who, by order of said director, had initiated an investigation of alleged fraud claimed to have led to the issuance of the Free Patents and corresponding Certificates of Title to the said appellees.

This appeal was certified to Us by the Court of Appeals on February 20, 1973, the decision of the trial court being based exclusively on a stipulation of facts as follows:

- "1. That Antonio Piñero, Jr., and Emma Piñero Bernad are residents of Dipolog, Zamboanga del Norte; while Fortunato Piñero is presently a resident of Negros Oriental;
2. That the identities of Lots Nos. 5790, 5792 and 2532, all of Pls - 100, situated at Napuyan, Dapitan, Zamboanga del Norte, are submitted; (sic);
3. That Lot No. 5790, Pls - 100 is covered by Free Patent No. V-63411 issued January 30, 1957 in favor of Antonio Piñero, Jr., and Lot No. 5792 Pls - 100 is covered by Free Patent No. V-63420 issued on January 30, 1957 in favor of Emma Piñero Bernad, and that Lot 2532 is applied for by Fortunato Piñero under Homestead Application No. V-66441 approved as of January 2, 1953, but up to the present no Patent has as yet been issued;
4. That Lot 2532 was formerly part of PSU - 111118, a private survey, executed by Surveyor Calixto Sudiactal in 1939 for Fortunato Piñero; and that by subsequent Survey executed by the ECA, Psu-111118 was subdivided into smaller lots, one of which is now Lot 2532;
5. That pursuant to Free Patent No. V-63411, Original Certificate of Title No. D-5349 was issued by the Register of Deeds of Zamboanga del Norte in favor of Antonio Piñero, Jr., on October 17, 1957;
6. That pursuant to Free Patent No. V-63420, Original Certificate of Title No. P-5312 was issued by Register of Deeds of Zamboanga del Norte, in favor of Emma Piñero on October 17, 1957;
7. That on August 8, 1958, the Director of Lands issued an order directing the investigation of the protest of Eusebio Camansi, against the patented application of Antonio Piñero, Jr., a copy of said order being found on page 14 of the expediente; and that on March 24, 1959 the Director of Lands thru the Chief Legal Division directed the Provincial Land Officer at Dipolog, to investigate the protest of Nicanor Alasaas against the

patented application of Emma Piñero Bernad, a copy of said order is also being on page 15 of the expediente;

8. That as regards Lot 5790 Pls - 100 the protest of Eusebio Camansi has been given due course against the claim of Antonio Piñero, Jr., which protest has been investigated and terminated, Antonio Piñero, Jr., being represented by his counsel Atty. Jesus Sarmiento;

9. That Nicanor Alasaas filed his protest dated February 27, 1958 and subscribed on March 11, 1958, before Notary Public, G. R. Dalmacio, Jr., a copy is hereto attached as Exhibit A; and that the protest of Nicanor Alasaas has been investigated by Atty. Mariano D. Palermo, investigator of the Bureau of Lands, Dipolog, Zamboanga del Norte on August 30, 1959;

10. That with respect to Lot 5792 the same has already been investigated and regarding Lot 5790 the investigation has already been terminated but no decision has as yet been issued;

11. That with respect to the claim of Tomas Sumalpong against the application of Fortunato Piñero an investigation was conducted on August 21, 1959 but neither Fortunato Piñero nor counsel appeared; that when the said case was re-scheduled for October 30, 1959, Atty. Jaime T. Hamoy counsel for Fortunato Piñero filed a motion for postponement on the ground that said counsel had a Criminal Case to attend to in the Justice of the Peace Court of Manukan, Zamboanga del Norte, after which the hearing was re-scheduled for December 28, 1959; that in said hearing counsel for Fortunato Piñero for the first time attacked the authority of the investigation on the alleged ground that under the Revised Administrative Code only the Director of Lands and Chief of Section of said Office can order investigation of land conflicts; that up to the present no resolution of that issue has as yet been made; and that no written motion bearing on the same ground interposed before the investigator was ever raised before the Director of Lands;

12. That pursuant to a letter of Atty. Candido Pa. Sumalpong as counsel for Tomas Sumalpong under date of July 28, 1959, protesting against the above-mentioned homestead application of Fortunato Piñero which letter was addressed to the Director of Lands thru the Provincial Land Officer at Dipolog, Zamboanga del Norte, the said Provincial Land Officer in the first indorsement dated July 22, 1959 addressed to Deputy Public Lands Inspector, Mariano D. Palermo, directed the investigation of the case until the said case is terminated for disposition under the provision of Land Administrative Order No. 13-3 that the said first indorsement was the sole authority for the investigation of the claim of said Tomas Sumalpong against the homestead application of Fortunato Piñero; that as above stated the investigation of the claim of Tomas Sumalpong was not terminated because counsel for Fortunato Piñero attacked the authority for the said investigation;

13. That in connection with the separate petition of the respondents, Nicanor Alasaas, Eusebio Camansi and Tomas Sumalpong against the application of the petitioners the same respondents were required by the Chief of the Legal Division of the Bureau of Lands in a letter dated September 4, 1959 to file a sworn protest and pay the protest fee within a period of thirty days from the receipt of the said letter, otherwise the respondents claim will be dismissed and disregarded without further notice; that a copy of said letter is hereto attached as an integral part of this stipulation of facts as Exhibit "B"; that there is no showing that respondents complied with the said letter nor is there any showing that the claim of the respondents are already dismissed (that is as of this date); that on December 18, 1959 the petitioners, thru counsel, filed a motion to dismiss the alleged protest but up to the present no resolution on said motion has ever been made; that as shown by this letter of September 4, 1959 which was addressed to Antonio Mabulay, Annex "B" respondents Tomas Sumalpong, Nicanor Alasaas and Eusebio Camansi were not given copy of this letter, and that the motion of counsel for the "Dismiss the Protest" (sic) does not show that respondents Tomas Sumalpong, Eusebio Camansi and Nicanor Alasaas were ever furnished a copy of said motion;

14. That the Director of Lands was actually served with summons on January 20, 1960 as shown by the return of the City Sheriff of Manila, which return appears on page 25 of the record of this case;

15. That for all matters not covered by this stipulation of facts parties agree to ask for a date for the reception

of evidence."

We hold the appeal to be meritorious. In the light of the facts disclosed in the foregoing stipulation, We reiterate *Cebedo vs. Director of Lands*, G. R. No. L-12777, May 22, 1961, 2 SCRA 25, wherein We held that it is not only the right but the duty of the Director of Lands to conduct the investigation of any alleged fraud in securing a free patent and the corresponding title to a public land and to file the corresponding court action for the reversion of the same to the State, if the facts disclosed in the course of such investigation should so warrant. Consequently, prohibition cannot be issued to enjoin such an investigation despite the existence of a Torrens title.

Indeed, it is to be clarified that Section 91 of the Public Land Act leaves no other alternative to the Director of Lands. The provision reads thus:

"SEC. 91. 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 statement 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. It shall be the duty of the Director of Lands, from time to time and whenever he may deem it advisable, to make the necessary investigations for the purpose of ascertaining whether the material facts set out in the application are true, or whether they continue to exist and are maintained and preserved in good faith, and for the purposes of such investigation, the Director of Lands is hereby empowered to issue subpoenas and subpoenas duces tecum and, if necessary, to obtain compulsory process from the courts. In every investigation made in accordance with this section, the existence of bad faith, fraud, concealment, or fraudulent and illegal modification of essential facts shall be presumed if the grantee or possessor of the land shall refuse or fail to obey a subpoena or subpoena duces tecum lawfully issued by the Director of Lands or his authorized delegates or agents, or shall refuse or fail to give direct and specific answers to pertinent questions, and on the basis of such presumption, an order of cancellation may issue without further proceedings."

Underlying this section and providing its justification is the Regalian doctrine embodied in Section 1 of Article XIII of the Constitution of 1935, in force during the material dates of the events herein involved, declaring that "all agricultural, timber, and mineral lands of the public domain ... and other natural resources of the Philippines belong to the State" And under *Krivenko vs. Register of Deeds*, 79 Phil. 461, "the scope of this constitutional provision, according to its heading and its language, embraces all lands of any kind of the public domain, its purpose being to establish a permanent and fundamental policy for the conservation and utilization of all natural resources of the Nation." Accordingly, the right to acquire disposable lands from the State through any of the means provided for in the Public Land Act, Commonwealth Act 141, must necessarily be subject to the reservation expressly made in above quoted Section 91 to the effect that "the statements made in the application shall be considered as essential conditions and parts of any ... title ... issued on the basis of such application" and that "any false statement 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[1] produce the cancellation of the concession, title or permit granted."

It is true that under Section 122 of the Land Registration Act, a Torrens title issued on the basis of a free patent or a homestead patent is as indefeasible as one judicially secured. And in repeated previous decisions of this Court that indefeasibility has been emphasized by Our holding that not even the Government can file an action for annulment, but at the same time, it has been made clear that an action for reversion may be instituted by the Solicitor General, in the name of the Republic of the Philippines.[2] It is to the public interest that one who succeeds in fraudulently acquiring title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an ever existing authority, thru its duly authorized officers, to inquire into the

circumstances surrounding the issuance of any such title, to the end that the Republic, thru the Solicitor General or any other officer who may be authorized by law, may file the corresponding action for the reversion of the land involved to the public domain, subject thereafter to disposal to other qualified persons in accordance with law. In other words, the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of Lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title in order that the appropriate action for reversion may be filed by the Government.

Nothing said above, however, should be understood as holding that the Court has found that the titles of appellees have been in fact fraudulently secured. That matter may be resolved only after the Director of Lands shall have finished his investigation.

IN VIEW OF THE FOREGOING, the decision of the trial court is reversed and the writ of prohibition sought by appellees is denied. Costs against appellees.

Makalintal, C.J., Zaldivar, Castro, Fernando, Teehankee, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

[1] All Our decisions require judicial action to set aside the effects of the title but not the title itself so, the title is not really cancelled ipso facto but, of course, its cancellation retroacts to the date of the issuance of such title. In other words, the title is void ab initio, not really ipso facto.

[2] Director vs. De Luna, 110 Phil. 28; Republic vs. The Heirs of C. Carle, 105 Phil. 1227; Panimdim vs. Director, 11 SCRA 628; and the cases therein cited.

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