

**SPOUSES PABLO DE LOS REYES AND ALEJANDRA DE LOS REYES,
PETITIONERS, VS. HONORABLE JUDGE JOSE R. RAMOLETE, COURT
OF FIRST INSTANCE OF CEBU, BRANCH III, AND CARMEN R. CANTOS,
RESP...***G.R. No. L-47331. June 21, 1983*

Ponente: FERNANDO, C.J.

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The right sought to be vindicated in this certiorari proceeding by petitioners, plaintiffs in the lower court, arose from the undisputed fact that they are bona fide holders and possessors since 1949 of a parcel of land consisting of 6,163 square meters whereon they built that same year their residence. They still have a pending miscellaneous sales application with the Bureau of Lands for such property. They thereafter discovered that their house occupied five meters of the adjoining lot, at the time of the construction in 1949 still public land but subsequently applied for in a miscellaneous sales application by private respondents, defendants in the court a quo, who were granted a patent only in 1972. Thus arose the conflict over the five meters in question.

The action was for reconveyance with damages. Respondent Judge dismissed the complaint on the ground that the action should have been filed by the Bureau of Lands on behalf of the Republic. With their sales application still pending, the lot in question is still public. That is to conform to a ruling of this Court that an action for reversion in such cases "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." [1] This doctrine was affirmed expressly in *Magay v. Estiandan*, [2] where this Court reiterated that where "the land in question is still part of the public domain, then the appellant is not the proper party to institute the reversion of the land, but it must be the Solicitor General in the name of the Republic of the Philippines." [3] From the standpoint then of strict law, what was done by the lower court cannot be characterized as a violation of controlling legal principles. Still there are equitable considerations that call for this Court resolving the question raised.

It is undoubted that there is a dispute appropriate for judicial determination. The contending parties are before the court. For petitioners, it is vital that their claim to the disputed five meters be passed upon. Their good faith is quite clear. As of the time their house was built, they were bona fide possessors, thereafter applicants for the sale of such parcel of land including the five meters. Unfortunately, the patent granted to private respondents twenty-three years after the construction of their residence included the same five meters. There is justification then for equity to set matters right.

Petitioners are thus entitled to the remedy sought, namely, ownership of the five meters in question, upon payment of just compensation to respondents to be determined as of the time the patent was granted in 1972.

- This conclusion finds support in *Armamento v. Guerrero*. [4] In that case, property covered by an original certificate of title pursuant to a free patent was granted by the Director of Lands on July 20, 1961 in favor of defendant Guerrero. In that case as well as here, there was a claim by plaintiffs that it was acquired through fraud

and misrepresentation, their allegation being that they were in actual possession thereof as actual occupants as far back as 1955. Thereafter, a homestead application was made in 1959, resulting in a grant to them in 1964. It turned out that in the meanwhile, as it did likewise happen here, a free patent was issued to defendant. Under such circumstances, this Court, stated: "The particular circumstances obtaining herein impel us to exercise our equity jurisdiction to the end that substantial justice may be dispensed to the party litigants. To affirm the trial Court's Order of dismissal would leave the present controversy unresolved and pending investigation at the administrative level. Aside from the length of time it would probably take for the case to reach the highest administrative authority, any final adjudication rendered by the latter may eventually be raised to the appellate Courts for judicial review. This circuitous and tedious process can be eliminated for the sake of speedy administration of justice by remanding the case to the trial Court for determination on the merits of the issue of validity of the issuance of Free Patent No. V-19129 and of the title which followed as a matter of course." [5]

- Nor is it necessary that this case be remanded to the trial court on the question of the validity of the patent obtained by respondents. As of the time the house of petitioners was built in 1949, they were in actual possession of the lot for which thereafter a miscellaneous sales application was submitted to the Bureau of Lands. Unfortunately, the patent granted to petitioners in 1972 included five meters thereof. It would be unduly time-consuming, if there being no claim to the rest of the property included in such patent to the respondents, the question of the alleged fraud would still have to be inquired into. Under the circumstances, that can be avoided by an outright determination that upon payment of the five meters in question, petitioners are entitled to be recognized as the owners thereof.

- As far as the Bureau of Lands is concerned, there seems to be no thought of reclaiming the property from respondents. There is, therefore, an express grant which justifies such acquisition. In *Lee Hong Kok v. David*, [6] reference was made to the Regalian doctrine to the effect that no public land can be acquired by private persons without any grant, express or implied, from the government. [7] The government, therefore, as the agent of the state is, in the language of *Gonzaga v. Court of Appeals*, [8] "possessed of the plenary power as the persona in law to determine who shall be the favored recipients of public lands, as well as under what terms they may be granted such privilege, not excluding the placing of obstacles in the way of their exercising what otherwise would be ordinary acts of ownership?" [9]

- The relevant facts thus justify the ruling that this litigation, presenting as it does an issue between the contending parties as to the disputed five meters, can be resolved by this Court exercising its equity jurisdiction to award the same to petitioners upon payment of the due compensation determined as of the date when respondents acquired their patent.

Accordingly, the Court holds that petitioners are entitled to ownership of such disputed portion upon payment by them of the just compensation to respondents for such five meters on the amount to be based on the value thereof as of the time the patent was granted on March 14, 1972.

WHEREFORE, the appealed Order of September 20, 1977 is reversed and the case remanded to the lower court for the purpose of determining the compensation due private respondent Carmen R. Cantos for the five meters of the lot in question, upon payment of which plaintiffs would become the owners of such five meters. No costs.

Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., did not take part.

[1] *Director of Lands v. Jugado*, 111 Phil. 1057, 1061 (1961).

[2] L-28975, February 27, 1976, 69 SCRA 456.

[3] Ibid, 458.

[4] L-34228, February 21, 1980, 96 SCRA 178.

[5] Ibid, 183.

[6] L-30389, December 27, 1972, 48 SCRA 372.

[7] Cf. Padilla vs. Reyes, 60. Phil. 967, 969 (1934).

[8] L-27455, June 28, 1973, 51 SCRA 381.

[9] Ibid, 388. Such a doctrine was affirmed in Francisco v. Rodriguez, L-31083, September 30, 1975, 67 SCRA 212.

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