

PEDRO NEBRADA, PLAINTIFF AND APPELLANT, VS, HEIRS OF FELIX ALIVIO, ET AL., DEFENDANTS AND APPELLEES.*G. R. No. L-11650. June 30, 1958*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a89a3d352ac5/>**BAUTISTA ANGELO, J.:**

Plaintiff brought this action against defendants in the Court of First Instance of Davao seeking the reconveyance of a parcel of land situated at Bansalan, Davao which was allegedly acquired by the latter through fraud. This property is covered by a certificate of title issued by the Register of Deeds of Davao on July 26, 1955 pursuant to a homestead patent issued by the Director of Lands on April 11, 1955.

Defendants filed a motion to dismiss on the grounds (1) that there is another action pending between the same parties in the Office of the Bureau of Lands regarding the same property; and (2) that the complaint states no cause of action. Plaintiff opposed in writing this motion to dismiss stating, among the reasons relied upon for its denial, the fact that plaintiff has already withdrawn the motion for reconsideration he had filed with the Director of Lands so that the action mentioned therein as pending between the parties has already become moot.

The court in an order issued on August 31, 1956 sustained the motion holding that, in the light of the allegations of the complaint, the same in its opinion does not state facts sufficient to constitute a cause of action, and, consequently, dismissed the complaint without pronouncement as to costs. In due time plaintiff directly appealed to this Court raising purely questions of law.

It is alleged in the complaint that on September 9, 1929, one Cobalan (Bagobo) was in possession of a portion of agricultural land situated at Bansalan, Davao, containing an area of 14 hectares more or less; that he applied for the acquisition of said land as homestead from the Bureau of Lands, and after complying with the requirements regarding possession and cultivation, said Bureau issued an order on June 22, 1940 directing the issuance of a patent for said land in favor of Cobalan; that Cobalan died intestate in September, 1945 while his wife died also intestate in April, 1946, leaving as heirs the following children: Trining Cobalan, 20 years old; Damayuan Cobalan, 18 years old; and Hat Cobalan, 16 years old; that sometime in 1949 intestate proceedings were instituted for the settlement of the estate of Cobalan wherein plaintiff was appointed as judicial administrator; that after the death of the spouses above-mentioned, one Perfecto Diray, taking advantage of the minority of Cobalan's heirs, illegally occupied the land in question and wrote a letter to the Director of Lands wherein he fraudulently misrepresented that Cobalan and his entire family were killed during the Japanese occupation after the former had sold his homestead rights over the controverted land to one Maxima Guilaran and praying that the order granting to Cobalan the said property as homestead be set aside and the same be adjudicated to the heirs of one Felix Alivio who has also filed an application for homestead with regard to the same property; that by reason of said misrepresentation, defendants succeeded in having the application of Cobalan cancelled, instead were able to secure the approval of the application of Felix Alivio and the consequent issuance of a patent in their favor and of the corresponding certificate of title from the Register of Deeds of Davao; and that by reason of the fraud practised upon them by defendants, they pray that the latter be ordered to reconvey to the heirs of the deceased

Cobalan the property in question and to pay damages in the amount of P18,536.00.

In dismissing the complaint on the ground that it does not state sufficient cause of action, the lower court made the following pronouncement:

"The second question to determine is whether the complaint, as asserted by the defendants in their second ground for their motion to dismiss, state no cause of action. It will be observed that the plaintiff in his complaint nowhere asserts that he is the 'owner' of the property involved in this litigation. All that he claims is that this property formed part of a homestead, applied for by his predecessor in interest, the deceased Cobalan (Bagobo), in whose favor the Director of Lands has allegedly issued an order sometime on June 22, 1940 for the issuance of a patent.

"The action of reconveyance of a property, that is already covered by a Torrens Title, under the Land Registration Act, may only be maintained by the 'owner' of the property who has been prejudiced by the actual fraud imputed to him, who succeeded in securing the registration of the said property in his name. Thus Sec. 55 of the Land Registration Act in its pertinent provision reads as follows:

'That in all cases of registration procured by fraud the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title.'

Is the herein plaintiff 'the owner' of the property in litigation within the contemplation of the Land Registration Act such that he may avail of the remedies provided for in Section 55 thereof? If he is not, then even if it should develop in this case that the registered owner of this property, the herein defendants, secured the registration thereof through actual fraud, the Court cannot direct the reconveyance of the said property to him, because insofar as he is concerned, he has not yet acquired the private ownership of this property since all the right that he claims therein is that of a mere homestead applicant. Whether or not such a right in expectancy may ripen into one of absolute ownership is for the Bureau of Lands to pass upon in the exercise of the administrative powers conferred on it by Commonwealth Act No. 141, the Public Land Act. And this may only be feasible if the property is caused to be reverted to the Government as part of the public domain under the provisions of Sections 91 and 124 of the Public Land Act."

We find no error in the above findings of the trial court. Indeed, in order that the heirs of Cobalan may claim reconveyance of the property in their favor there is need for them to show that they are the owners thereof but that they had been deprived of its ownership and possession through fraud practised by defendants. The complaint does not show nor claim that they are the owners of the property, for it merely alleges that their father Cobalan applied for the property as homestead from the Bureau of Lands and that after complying with the requirements of the law an order was issued directing the issuance of the patent to Cobalan. But the complaint also shows that this order was later set aside by the Bureau of Lands in view of an alleged misrepresentation made by one Perfecto Diray in behalf of the heirs of Felix Alivio, and that said order became final when plaintiff withdrew the motion for reconsideration he had filed when he learned of the existence of such order. Indeed, the order of the Director of Lands above adverted to was issued on November 5, 1954, and it reads as follows:

"As upon investigation conducted by a representative of this Office it has been found out that applicant Cobalan (Bagobo) has relinquished for valuable consideration his right and interests in the land covered by his above application in favor of Maxima Guilaran, his Homestead Application No. 151923, (E-60033) is hereby cancelled forfeiting in favor of the government whatever amount has been paid on account thereof.

"SO ORDERED.

"November 5 (15), 1954.

(S/t) VICENTE TORDESILLAS

Asst. Director AC/ajm"

The step taken by the heirs of the deceased Cobalan in presenting a motion for reconsideration before the Director of Lands seeking to set aside his order of November 5, 1954 was the most appropriate under the circumstances for it was the occasion for them to prove that defendants succeeded in cancelling the interest of their predecessor-in-interest through fraudulent misrepresentation for which reason they were not given their day in court. It is true that the order of cancellation was predicated upon the ground that Cobalan violated the law when he transferred his homestead rights over the property for valuable consideration without official approval, but they can also disprove the truth of such claim, as they now try to do, by showing that what their father did was not to transfer but merely to mortgage his interest in the property; but all such opportunity was wasted when they withdrew the motion for reconsideration apparently in the belief that it was no longer necessary in view of the pendency of the present case in the Court of First Instance of Davao. Under our law and precedents on the matter, that motion was necessary if they wanted to obtain a reconsideration of the order of the Director of Lands and if the ruling is adverse, their remedy is to appeal to the Secretary of Agriculture and Natural Resources. They should first exhaust their administrative remedies before bringing the matter to court (*Miguel vs. Reyes*, 93 Phil., 542; *Lachica vs. Ducusin*, 102 Phil., 551). As the situation now stands, we find no other alternative than to conclude that the court a quo did not err in dismissing the complaint on the ground that it does not state a cause of action.

Wherefore, the order appealed from is affirmed, without prejudice to whatever administrative action the heirs of Cobalan may desire to take under the law in the Office of the Bureau of Lands in view of their claim of fraud allegedly practised by defendants. No pronouncement as to costs.

Paras, C. J., Bengzon, Reyes, A., Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.