

**AMADO M. GARCIA, REPRESENTED BY EMPERATRIZ V. GARCIA,
PETITIONER, VS. DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES (OFFICE OF THE REGIONAL EXECUTIVE
DIRECTOR-REGION XI, DAVAO...**

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SINGH, J.:[*]

This is a petition[1] for certiorari under Rule 65 of the Rules of Court seeking the reversal of the November 19, 2007, November 7, 2008, March 4, 2010 and June 17, 2010 Orders[2] of the Department of Environment and Natural Resources (DENR), rendered through the Office of the Regional Executive Director-XI (public respondent), Davao City, in RED Claim No. 320-IX(N)07.

Factual Antecedents

The present controversy stemmed from a Protest[3] filed by Lydio Labuen, Roberto Bazar, Federico Supera, Nerio Arado, Marcelino Abad, Marlon Ilao, Usman Gapor, Ramil Mabul, Lanie Custodio and Arnelia Capao (private respondents) against the Union Bank of the Philippines (Union Bank), Tomric Realty Corporation (Tomric Realty), DSPK Holding Ltd. Corporation (DSPK Holding) and herein petitioner Amado Garcia (Garcia) before public respondent for “annulment and cancellation of Original Certificate of Title (OCT) No. 40 and all its derivative titles, namely: Transfer Certificates of Title (TCT) Nos. T-77505, T-77506, T-77507; T-179210, T-179211; T-187027, T-187028; T-118084, T-118085, T-118086, T-118087; T-257220, and all other derivative titles”.

The Protest, docketed as RED Claim No. 320-IX(N)07, involved Lot Nos. 1 and 2, Cad. 102 situated at Lizada Street, Santa Ana, Davao City with an area of 11,699 square meters. Said lands were covered by OCT No. 40 issued in favor of Tomas Monteverde (Monteverde) on February 23, 1921 pursuant to Decree No. 102266[4] issued in LRC Case No. 42, Record No. 12974, Court of First Instance of Davao.

Private respondents, who claimed to be members of the Quezon Boulevard Homeowners Group, Incorporated, averred that for more than fifty (50) years, they have been occupying some 11,699-sq. m. of the land embraced by TCT Nos.: T-77505, T-77506 and T-77507 registered in the name of Garcia;[5] T-179210, T-179211, T-187027 and T-187028 registered to So Peng Kee but judicially levied in favor of Union Bank;[6] T-118084, T-118085, T-118086 and T-118087 registered to Tomric Realty;[7] and T-257220[8] registered in the name of DSPK Holding. The aforesaid TCTs are derivatives of Monteverde’s OCT No. 40.

Allegedly, private respondents had exerted efforts to discover the existence of OCT No. 40 but the concerned government agencies, namely: the Court of First Instance[9] (CFI) of Davao City, the Land Registration Authority (LRA) and the Register of Deeds[10] of Davao City, including the Land Management Bureau[11] (formerly Bureau of Lands) in Manila, respectively certified that they have no record of Decree No. 102266 in Monteverde’s name or any of the latter’s public land applications in their files. Hence, private respondents contended that OCT No. 40 does not validly exist or is a “ghost title”, thereby rendering its derivative TCTs fraudulent and spurious, that must then be cancelled for being null and void.

Private respondents further alleged that the aforementioned title holders were never in possession of the subject lands because it was they (private respondents) who have been actually occupying the same since time immemorial, for which, they claim priority rights in the issuance of its title. Private respondents thus prayed for public respondent to conduct an investigation and to render judgment for the cancellation of OCT No. 40, including its derivative TCTs, so that the subject lands may be reverted to the mass of public domain.

Giving due course to the Protest, public respondent subsequently issued an Order of Investigation.

Consequently, Garcia filed a motion to dismiss the Protest on grounds of lack of jurisdiction, indefeasibility of title, imprescriptibility of lands registered under the Torrens title, *litis pendentia* and forum shopping.[12] Garcia asserted the existence of OCT No. 40 by appending a copy of the same which he obtained from the main office of the LRA.

On November 19, 2007, public respondent issued the first assailed Order, denying Garcia's motion, as follows:

"Firstly, on the allegation of "Lack of Jurisdiction" of this Office, we note that protestants (sic) herein are alleging among others, fraud in the issuance of the assailed titles. Be it noted here that the authority of this Office to conduct administrative investigations relative to the case and others of similar nature, is expressly and clearly stated under Section 91 of the Public Land Act. Said the Supreme Court in the case of "Ybañez vs. IAC" (194 SCRA 743):

"x x x in the case of the administrative investigation under Section 91 of the Public Land Law, the sole and only purpose of the Director of Lands 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. It is not intended to invalidate the Torrens certificate of title of the registered owner of the land. Unless and until the land is reverted to the State by virtue of a judgment of a court of law in a direct proceedings for reversion, the Torrens certificate of title thereto remains valid and binding against the whole world."

In addition, the investigation conducted by this Office is merely fact-finding in nature. In the event, however, that findings of facts gathered during the investigation, fraud and/or misrepresentation is/are found to exist in procuring such title (sic), this Office would then recommend for the filing of a complaint for reversion, for review and approval by the Office of the Solicitor General. It is actually at the instance of the Solicitor General that the complaint for reversion is filed in the proper court.

Secondly, as to respondent's (Garcia) claim of indefeasibility of the subject titles, the High Court in the case of "Republic vs. Court of Appeals" (171 SCRA 721) declared: "It is true that under Section 122 of the Land Registration Act, a title issued on the basis of a Free Patent is as indefeasible as one judicially secured. That indefeasibility, however, is not a bar to an investigation by the Director of Lands as to how such title had 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."

On the third issue of "Prescription", the same tribunal in the case of "Republic vs. Animas" (56 SCRA 499), ruled: Public land fraudulently included in patents or certificates of title may be recovered or reverted to the state in accordance with Section 101 of the Public Land Act. Prescription does not lie against the State in such cases for the Statute of Limitations does not run against the State. The right of reversion or reconveyance of the State is not barred by prescription."

As regards the last issue of "Litis Pendencia and Forum Shopping", x x x .

x x x, we note that of the fourth requisite above, the resolution x x x in Civil Case No. 531,603-06, pending before RTC, Branch 11, this City, will not bar this Office from conducting its administrative function from (sic) determining whether or not fraud attended in (sic) the issuance of the questioned title. These actions are separate

and distinct from one another. x x x.

WHEREFORE, x x x, the “MOTION TO DISMISS” is hereby DENIED; the investigation of the case shall proceed as directed earlier in the Order of Investigation issued by this Office.

x x x. (Underscoring Ours)

Thereafter, Garcia moved for the reconsideration[13] of the foregoing Order while Union Bank, for its part, also filed a motion to dismiss[14] the Protest. Both motions were, however, denied in the second assailed Order dated November 7, 2008, thus:

“In our Order dated November 9, 2007, this Office has maintained that the Department of Environment and Natural Resources has jurisdiction to hear the present Protest. Our position stands. While the subject Original Certificate of Title may have been judicially issued, that does not divest from the Department the authority to investigate claims that the land covered thereby have (sic) been acquired through fraud. It should be stressed that the proceedings before our Office are fact-finding in nature, primarily aimed to determine if public land was acquired through fraud. Whether the acquisition be by administrative patent or judicial decree is of no moment. And in both cases, should fraud be found attendant, this office shall merely recommend for the filing of an action for reversion to the Office of the Solicitor General who (sic) shall file a case in behalf of the Republic of the Philippines with the appropriate courts. Eventually, the case for reversion shall be decided by the competent judicial body. x x x.” (Underscoring Ours)

Union Bank’s subsequent motion for reconsideration[15] of the above Order was likewise denied on February 11, 2010. Shortly thereafter, public respondent rendered its third assailed Order (dated March 4, 2010) which directed all the respondents to file their answer to the Protest within fifteen (15) days from notice. In compliance, Garcia filed his Answer[16] on April 22, 2010 reiterating therein as affirmative defenses the grounds he invoked in his motion to dismiss the Protest. Acting on Garcia’s subsequent urgent motion,[17] public respondent issued the fourth assailed Order¹⁸ on June 17, 2010, resolving the affirmative defenses in this wise:

“But be (sic) as it may, let it be noted that the aforementioned affirmative defenses seeking for the dismissal of the instant action were already ruled upon by the DENR RXI Regional Executive Director in his Order dated November 19, 2007 denying x x x Garcia’s Motion to Dismiss and in the Order dated November 7, 2008 denying x x x Garcia’s Motion for Reconsideration x x x. As it is, and insofar (sic) as the affirmative defenses treated herein are concerned, there are (sic) nothing more to be resolved. x x x.” (Underscoring Ours)

The Issue

Petitioner raised the sole error that:

“THE PUBLIC RESPONDENT DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (OFFICE OF THE REGIONAL EXECUTIVE DIRECTOR-XI, DAVAO CITY) ERRED AND GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OF (SIC) OR IN EXCESS OF JURISDICTION IN CONSISTENTLY AND PERSISTENTLY DENYING PETITIONER’S MOTION TO DISMISS, MOTION FOR RECONSIDERATION AND IN RULING OUT WITH FINALITY PETITIONER’S AFFIRMATIVE DEFENSES, AND IN EFFECT, PROCEEDING WITH THE PROTEST UNDER THE GUISE OF A “FACT-FINDING INVESTIGATION” GEARED TOWARDS ANNULING/NULIFYING OCT NO. 40 (AND ALL OTHER DERIVATIVE TITLES).”[19]

Petitioner’s Position

Garcia, the sole petitioner, contends that by its allegations and the ultimate relief sought, the Protest filed by private respondents is essentially a reversion suit over which public respondent has no jurisdiction and private respondents have no legal personality to institute. Garcia argues that the authority of public respondent is limited

only to the management and disposition of public lands or lands of the public domain, and does not cover lands privately owned. Garcia points out that OCT No. 40 was not issued pursuant to a patent but through a cadastral proceeding. Thus, public respondent has no authority and private respondents no legal personality to assail or collaterally attack such title, including its derivative TCTs, by the mere ruse of conducting a fact-finding investigation of alleged fraud in its issuance.

Moreover, Garcia claims that assuming *solo ex gratia argumenti* that private respondents have been occupying the subject lot for more than fifty years, their occupation cannot defeat the imprescriptibility of registered lands.

Respondents' Position

Private respondents, on the other hand, assert that public respondent has jurisdiction to entertain their Protest which they filed to determine the existence of fraud in the issuance of OCT No. 40. They claim that the land covered by OCT No. 40 is situated in Barrio Tugbok of Davao City, which, more or less, is twenty (20) kilometers away from Lizada Street of Barangay 26, Davao City where the actual disputed area covered by the assailed derivative TCTs is located. As such, they contend that OCT No. 40 is a ghost title produced by fraud and deceit to the prejudice of the government.

Private respondents also argue that the present petition is a wrong remedy availed of by Garcia to assail public respondent's Orders because a petition for certiorari under Rule 65, Rules of Court, may be availed of only when there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. They point out that the law affords Garcia a remedy to address his dissatisfaction with the said Orders, such as the one provided under Administrative Order No. 87, Series of 1990 which sanctions an appeal to the DENR Secretary from decisions/orders rendered by the DENR Regional Offices. Private respondents add that Garcia violated the rule on exhaustion of administrative remedies by filing the present petition.

Ruling

The petition is granted.

Public respondent (DENR Office of the Regional Executive Director-IX) has no jurisdiction over the Protest filed by private respondents to assail the validity of OCT No. 40 and its derivative titles.

It is worth stressing that the Protest filed by private respondents contains the following prayers:

- "a) Declaring OCT No. 40 and TCT Nos. T-118084, T-118085, T-118086, T-118087, T-77505, T-77506, T-77507, T-187027, T-187833 and T-12843, T-257220 and all other derivative titles as null and void for being fraudulent and spurious;
- b) Reversing (sic) the land covered by OCT No. 40 and its derivative titles into the mass of land belonging to the public domain;
- c) It being alienable and disposable the lots occupied by the members of the petitioning association be awarded to them, and that the corresponding authority be issued to them for the subdivision of the same, leading to the issuance of titles in their favor."^[20] (*Italics in the original; emphasis supplied*)

Private Respondents, therefore, asked the public respondent, after conduct of an investigation regarding the issuance of OCT No. 40, to annul it including its derivative TCTs, as well as to order the reversion of the disputed land in favor of the government.

In taking cognizance of said Protest, public respondent relied on Section 91 of Commonwealth Act (CA) No. 141 or the Public Land Act, which took effect on November 7, 1939. It reads:

“Section 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 statements 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.” (Italics and underscoring Ours)

It is clear that the investigative power granted to the Director of Lands above pertains only to certificates of titles, permits or concessions over alienable and disposable public lands granted and issued through the modes provided in CA No. 141, i.e., by homestead, sales and free patents, and judicial confirmation of imperfect titles.

A scrutiny of OCT No. 40 shows that its issuance was by virtue of Decree No. 102266 issued by the then Court of First Instance[21] of the Province of Davao covering two parcels of land consisting of a total area of 98,522 sq. m. in favor of Tomas Monteverde y Dequito. It was inscribed in the Registration Book of the Register of Deeds for the Province of Davao on February 23, 1921. Obviously, said title was issued pursuant to cadastral proceedings under the Cadastral Act[22] (Act No. 2259).

To demonstrate public respondent’s lack of authority to entertain the Protest of private respondents that assail the validity of OCT No. 40, the following discussion on the differences in binding effect between titles granted through cadastral proceedings and those obtained by administrative grant under the Public Land Act, is instructive, thus:

“In a cadastral case, title of ownership on the land is vested upon the owner upon the expiration of the period to appeal from the decision or adjudication by the cadastral court, without such an appeal having been perfected. In other words, upon the promulgation of the order of issuance of a decree, the land for all intent and purposes, had become, from that time, registered property which could not be acquired by adverse possession. The certificate of title would then be necessary for purposes of effecting registration of subsequent disposition of the land where court proceedings would no longer be necessary.

In contrast, a certificate of title based on a patent, even after the expiration of one year from the issuance thereof, is still subject to certain conditions and restrictions. As a matter of fact, in appropriate cases and after prior administrative investigations by the Director of Lands, proper actions may be instituted by said official which may lead to the cancellation of the patent and the title, and the consequent reversion of the land to the government. On the other hand, a certificate of title issued pursuant to cadastral proceedings, after the lapse of one year, becomes incontrovertible.”[23] (Underscoring Ours)

Clearly, the authority of the Director of Lands, acting through the DENR Regional Executive Director, to investigate certificates of land titles is confined only to those issued through administrative grants under the Public Land Act. Considering that OCT No. 40 was issued through a court cadastral proceeding, public respondent is devoid of any authority to investigate the circumstances surrounding its issuance.

Jurisdiction is the power with which courts or agencies of the government exercising quasi-judicial powers are

invested for administering justice; that is, for hearing and deciding cases.[24]

For lack of jurisdiction, therefore, the challenged Orders and proceedings of the Regional Executive Director in RED Claim No. 320-XI(N)07 are set aside for being null and void.

With the finding that public respondent lacks jurisdiction over the Protest of private respondents, there is no need to discuss the allegations of grave abuse of discretion imputed to the former.

WHEREFORE, the petition is GRANTED and the assailed Orders dated November 19, 2007, November 7, 2008, March 4, 2010 and June 17, 2010 in RED Claim No. 320-IX(N)07 are SET ASIDE. Accordingly, for lack of jurisdiction on the part of the Office of the Regional Executive Director-XI, DENR, Davao City, over RED Claim No. 320-IX(N)07, the Protest is hereby ordered DISMISSED.

SO ORDERED.

Borja, J. Chairperson, and Badelles, JJ., concur.

[*] This case was assigned to the Ponente by re-raffle only on 15 July 2014.

[1] Rollo, pp. 2-29.

[2] Id. at pp. 34-36, 37-38, 44 and 45.

[3] Id. at pp. 46-49.

[4] Id. at pp. 200-202.

[5] Id. at pp. 188-190.

[6] Id. at pp. 191-198, per Entry No. 1253497.

[7] Id. at pp. 184-187.

[8] Id. at p. 199.

[9] Id. at p. 205, see Certification dated February 2, 1973.

[10] Id. at p. 203, see Certification dated September 11, 1996.

[11] Id. at p. 204, see Certification dated September 26, 1996.

[12] Id. at pp. 52-59.

[13] Id. at pp. 39-42.

[14] Id. at pp. 68-77.

[15] Id. at pp. 80-86.

[16] Id. at pp. 93-107.

[17] Id. at pp. 110-112.

[18] Id. at p. 35.

[19] Id. at p. 16.

[20] Rollo, p. 49.

[21] Now Regional Trial Court.

[22] Enacted on February 11, 1913.

[23] Justice Oswaldo D. Agcaoili, Property Registration Decree and Related Laws (Land Titles and Deeds), 2006, p. 379.

[24] Cosco Philippine Shipping, Inc. v. Kemper Insurance Co., G.R. No. 179488, 23 April 2012.

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