

ISIDRO C. NERY, AS REGIONAL LAND DIRECTOR OF NORTHERN MINDANAO, AND MACARIO D. YCARO, AS DISTRICT LAND OFFICER OF BUKIDNON, PETITIONERS, VS. HON. BERNARDO TEVES, AS JUDGE OF THE...

G.R. No. L-33243. November 29, 1983

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition to review a decision of the defunct Court of First Instance of Misamis Oriental in Civil Case No. 3512.

On September 29, 1969, homestead patent No. 128020 was issued to the heirs of Mauricio Merlas, the private respondents herein. On September 15, 1970, the patent was registered with the Register of Deeds of Bukidnon and the corresponding Original Certificate of Title No. P-4579 was issued to the aforesaid heirs.

On May 11, 1970, Francisco Torres filed a verified letter-protest with the District Land Officer (DLO) of Bukidnon, alleging that homestead patent No. 128020 was obtained thru deceit and misrepresentation. On August 17, 1970, Regional Land Director Isidro Nery directed DLO Macario Ycaro to investigate the protest pursuant to Sec. 91 of the Public Land Act.

The Merlas siblings objected to the investigation. They claimed that the DLO had no power to conduct an investigation because the land had been registered under Act No. 496. DLO Ycaro overruled the objection and set the case for hearing on October 20, 1970. The siblings filed a petition for prohibition in the Court below which rendered the following judgment:

"WHEREFORE, judgment is hereby rendered for petitioners, ordering respondents Regional Land Director Isidoro C. Nery and District Land Officer Macario D. Ycaro to desist absolutely and perpetually from proceeding with the investigation in question."

The legal issue was well stated by the trial court as follows: "After the issuance of the Homestead Patent and the corresponding Original Certificate of Title thereto, may the Director of Lands conduct an investigation to determine whether or not said Patent had been obtained through fraud or misrepresentation, as a basis, if warranted, for bringing the appropriate action before the courts of Justice?"

The petitioners assert that the answer is in the affirmative. Upon the other hand, the respondents, both public and private, insist on a negative answer. They invoke *Sumail vs. Judge of the Court of First Instance of Cotabato*, 96 Phil. 946, 952 (1955) which states that "once the patent was granted and the corresponding certificate of title was issued, the land ceased to be part of the public domain and became private property over which the Director of Lands has neither control nor jurisdiction."

The petition is highly impressed with merit.

Sec. 91 of the Public Land Act (C.A. No. 141, as amended) pro-vides the following:

"Sec. 91. The statements made in the appli-cation 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 fraud-ulent 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."

It should be noted that the foregoing provision speaks, inter alia, of the "cancellation of the concession, title, or permit granted" (underscoring supplied) in respect of which the Director of Lands can conduct an investigation. This Court has confirmed such power in the following cases:

"It is not only the right but the duty of the Director of Lands to conduct the investigation complained of and to file the corresponding court action for the reversion of the properties to the State, if the facts disclosed in the course of the investigation so warrants." (Cebedo vs. Director of Lands, L--12777, May 23, 1961, 2 SCRA 25, 29.)

"The mere fact that a patent and a title have already been issued to defendant Calamba does not preclude administrative investigation by the Direc-tor of Lands, who, if he finds that there was fraud in obtaining the same, may himself or in representation of the Republic of the Philippines file an appro-priate action for the cancellation of the patent and title or for the reversion of the land to the public domain, as the case may be." (Gamao vs. Calamba, L-13349, 109 Phil. 542, 546, [1960].)

"Furthermore, a certificate of title based on a patent, even after the expiration of one year from the issuance thereof, is still subject to certain con-ditions and restrictions. As a matter of fact, in appro-priate cases and after prior administrative investiga-tions by the Director of Lands, proper actions may be instituted by said officials which may lead to the can-cellation of the patent and title, and the consequent reversion of the land to the Government." (Nieto vs. Quines, L-14643, September 29, 1962, 6 SCRA 74, 81.)

The trial court's decision is based on a misconception of Sumail. That case simply means that once a patent is granted and the corresponding certificate of title is issued the Director of Lands has no power to revoke or cancel them. It does not follow that the Director of Lands cannot conduct an investigation for the purpose of filing an action for reversion in court.

WHEREFORE, the petition is granted and the judgment under review is hereby set aside with no costs.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, and Escolin, JJ., concur.
De Castro, J., no part.

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