

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER VS. HON. PEDRO SAMSON ANIMAS, IN HIS CAPACITY AS JUDGE OF CFI SOUTH COTABATO, BRANCH I, GENERAL SAN...

G.R. No. L-37682. March 29, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition to review the order of the Court of First Instance of South Cotabato, Branch I, General Santos City, dated June 22, 1973, dismissing the complaint in its Civil Case No. 1253, entitled "Republic of the Philippines, Plaintiff, vs. Isagani Du Timbol and the Register of Deeds of General Santos City, Defendants", instituted by the plaintiff to declare null and void Free Patent No. V-466102 and Original Certificate of Title (O.C.T.) No. P-2508 based thereon issued in the name of defendant Isagani Du Timbol; to order the aforesaid defendant to surrender the owner's duplicate of O.C.T. No. P-2508 and the defendant Register of Deeds to cancel the same; to decree the reversion of the land in question to the mass of public domain, and granting such further relief as may be just and equitable in the premises.

The land covered by the free patent and title in question was originally applied for by Precila Soria, who on February 23, 1966, transferred her rights to the land and its improvements to defendant Isagani Du Timbol who filed his application therefor on February 3, 1969, as a transferee from Precila Soria.

On December 12, 1969, free Patent No. V-466102 was issued by the President of the Philippines for the land in question, and on July 20, 1970, after transmittal of the patent to the Register of Deeds of General Santos City, Original Certificate of Title (O.C.T.) No. P-2508 was issued in the name of defendant Isagani Du Timbol.

On August 5, 1971, the Republic of the Philippines, at the instance of the Bureau of Forestry, filed a complaint in the Court of First Instance of Cotabato, Branch I, General Santos City (Civil Case No. 1253), to declare free patent No. V-466102 and Original Certificate of Title No. P-2508 in the name of defendant Isagani Du Timbol null and void ab initio and to order the reversion of the land in question to the mass of public domain. The action is based on the ground that the land covered thereby is a forest or timber land which is not disposable under the Public Land Act; that in a reclassification of the public lands in the vicinity where the land in question is situated made by the Bureau of Forestry on March 7, 1958, the said land was plotted on Bureau of Forestry map L.C. 700 to be inside the area which was reverted to the category of public forest, whereas the application for free patent by Isagani Du Timbol was filed on June 3, 1969, or more than eleven years thereafter; that the said patent and title were obtained fraudulently as private respondent Isagani Du Timbol never occupied and cultivated the land applied for.

Invoking the case of *Ramirez vs. Court of Appeals* (G.R. No. L-28591, 30 SCRA 207-301), holding that a certificate of title fraudulently secured is not null and void ab initio, unless the fraud consisted in misrepresenting that the land covered by the application is part of the public domain when it is not, the respondent court dismissed

the complaint on the ground that said Certificate of Title based on the patent had become infeasible in view of the lapse of the one-year period prescribed under Section 38 of the Land Registration Act for review of a decree of title on the ground of fraud. From this order of June 22, 1973, dismissing the complaint, plaintiff Republic of the Philippines has appealed to this Court for review.

After careful deliberation, this Court grants the petition on the ground that the area covered by the patent and title is not disposable public land, it being a part of the forest zone and, hence, the patent and title thereto are null and void.

The defense of infeasibility of a certificate of title issued pursuant to a free patent does not lie against the state in an action for reversion of the land covered thereby when such land is a part of a public forest or of a forest reservation. As a general rule, timber or forest lands are not alienable or disposable under either the Constitution of 1935 or the Constitution of 1973. Although the Director of Lands has jurisdiction over public lands classified as agricultural under the constitution, or alienable or disposable under the Public Land Act, and is charged with the administration of all laws relative thereto, mineral and timber lands are beyond his jurisdiction. It is the Bureau of Forestry that has jurisdiction and authority over the demarcation, protection, management, reproduction, occupancy and use of all public forests and forest reservations and over the granting of licenses for the taking of products therefrom, including stone and earth (Section 1816 of the Revised Administrative Code). That the area in question is a forest or timber land is clearly established by the certification made by the Bureau of Forest Development that it is within the portion of the area which was reverted to the category of forest land, approved by the President on March 7, 1958. When the defendant Isagani Du Timbol filed his application for free patent over the land in question on June 3, 1969, the area in question was not a disposable or alienable public land but a public forest. Titles issued to private parties by the Bureau of Lands when the land covered thereby is not disposable public land but forest land are void ab initio. In *Gatchalian vs. Pavilen, et al.*, L-17619, Oct. 31, 1962, 6 SCRA p. 508, 512, this Court said:

"And if it be true that the Bureau of Lands had no jurisdiction to issue a patent because the land involved was still inalienable forest land when granted, then it may be plausibly contended that the patent title would be ab initio void, subject to attack at any time by any party adversely affected." (*Gatchalian vs. Pavilen, et al.*, L-17619, Oct. 31, 1962, *supra*, citing Civil Code Arts. 1409 and 1421; *Vano vs. Insular Gov't*, 41 Phil. 161; *Aderable vs. Director of Forestry*, L-13663, March 25, 1960)."

A patent is void at law if the officer who issued the patent had no authority to do so (*Knight vs. Land Ass.*, 142 U.S. 161, 12 Sup. Ct., 258, 35L ED. 974; *italics supplied*). If a person obtains a title under the Public Land Act which includes, by mistake or oversight, lands which cannot be registered under the Torrens System, or when the Director of Lands did not have jurisdiction over the same because it is a public forest, the grantee does not, by virtue of said certificate of title alone, become the owner of the land illegally included. (See *Ledesma vs. Municipality of Iloilo*, 49 Phil. 769)

The case of *Ramirez vs. Court of Appeals*, G. R. No. L-28591, Oct. 31, 1969, 30 SCRA 297, relied upon by respondent Court in dismissing this case, is not controlling. In that case no forest land was involved but agricultural public land which was first covered by a patent issued to one party and later registered under the Torrens System by the other party. The litigation was between private parties where the party who registered it under Act No. 496 sought the nullity of the title of the patentee under the Public Land Act. In the case at bar the party seeking the nullity of the title and reversion of the land is the state itself which is specifically authorized under Section 101 of the Public Land Act to initiate such proceedings as an attribute of sovereignty, a remedy not available to a private individual.

The complaint alleges in its paragraph 8 that applicant Isagani Du Timbol was never in possession of the property

prior to his filing the application, contrary to the provisions of law that the applicant must have been in possession or cultivation thereof for at least 30 years; that the applicant, after diligent search by the Acting Chief of the Survey-Party, Francisco R. Alcones, in South Cotabato, could not be contacted because he is a resident of Davao City; that there are no existing signs of improvements found in the area in question as it is not under cultivation but covered with grasses, bushes and small trees; that it is being used as ranch for grazing cows by the heirs of Hermogenes Chilsot; that no monuments were placed on the area surveyed which goes to show that there was no actual survey thereof; that the property in question is inside the ranch of the heirs of Hermogenes Chilsot under Pasture Lease Agreement No. 1244 and, therefore, inside the forest zone; and that said ranch has a fence around it to show that other persons could not enter and cultivate the same, and that the signature of then Acting District Land Officer Elias de Castro of South Cotabato has been forged to facilitate the issuance of patent in favor of Isagani Du Timbol.

The above alleged circumstances are indicative of fraud in the filing of the application and obtaining title to the land, and if proven would override respondent Judge's order dismissing the case without hearing. The misrepresentations of the applicant that he had been occupying and cultivating the land and residing thereon are sufficient grounds to nullify the grant of the patent and title under Section 91 of the Public Land Law which provides as follows:

"That statements made in the application shall be considered as essential conditions or parts of any concession, title or permit issued on the basis of such application, and any false statement thereon or omission of facts, changing, or modifying the consideration of the facts set forth in such statement, 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. . . ."

A certificate of title that is void may be ordered cancelled. A title will be considered void if it is procured through fraud, as when a person applies for registration of the land under his name although the property belongs to another. In the case of disposable public lands, failure on the part of the grantee to comply with the conditions imposed by law is a ground for holding such title void (*Director of Lands vs. Court of Appeals, et al.*, G.R. No. L-17696, May 19, 1966, 17 SCRA, 71, 79-80; *italics supplied*). The lapse of the one year period within which a decree of title may be reopened for fraud would not prevent the cancellation thereof, for to hold that a title may become indefeasible by registration, even if such title had been secured through fraud or in violation of the law, would be the height of absurdity. Registration should not be a shield of fraud in securing title. (*J. M. Tuason & Co., Inc. vs. Macalindog*, L-15398, December 29, 1962, 6 SCRA 938, page 38).

Considering that it is the state that is seeking the cancellation of the title of respondent Isagani Du Timbol, said title has not become indefeasible for prescription cannot be invoked against the state. A title founded on fraud may be cancelled, notwithstanding the lapse of one year from the issuance thereof, through a petition filed in court by the Solicitor General, (*Sumail vs. Court of First Instance of Cotabato*, 51 O. G. p. 2414 L-8278, 96 Phil. 946; *Eugenio, et al., vs. Perdido, et al.*, G. R. No. L-7083, May 19, 1955; *De Los Santos vs. Roman Catholic Church of Midsayap*, G. R. No. L-6088, Feb. 24, 1954, 94 Phil. 405).

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 (*Director of Lands vs. Jugado, et al.*, G. R. No. L-14707, May 23, 1961). Prescription does not lie against the state in such cases for the Statute of Limitations does not run against the state (Article 1108, paragraph 4 of the New Civil Code). The right of reversion or reconveyance to the state is not barred by prescription (*Republic of the Philippines vs. Ramona Ruiz, et al.*, G. R. No. L-23712, April 29, 1968, 23 SCRA 348; *People vs. Ramos*, G. R. No. L-15484, Jan. 31, 1963, 7 SCRA 47; *Government of the Philippines vs. Monte de Piedad* 35 Phil. 728; 751-753).

Even granting that the title of private respondent Isagani Du Timbol can no longer be reopened under the Land Registration Act, the land covered thereby may be reconveyed to the state in an action for reconveyance under Section 101 of Commonwealth Act 141 (Public Land Act), for the remedy of reconveyance is adequately covered by the prayer of the complaint for the grant of such other relief as may be just and equitable in the premises.

FOR ALL THE FOREGOING, the order of the respondent court, dated June 22, 1973, dismissing the complaint, and that of September 29, 1973, denying the motion for its reconsideration, both issued in Civil Case No. 1253 of the respondent court, are hereby annulled and set aside. The respondent court shall proceed to hear said Civil Case and render judgment thereon accordingly.

Costs against respondent Isagani Du Timbol.

Makalintal, C. J., Ruiz Castro, Makasiar, and Muñoz Palma, JJ., concur.

CONCURRING OPINION

TEEHANKEE, J.:

I concur in the judgment setting aside respondent court's orders which erroneously dismissed petitioner's complaint on the ground of purported indefeasibility of private respondent's torrens certificate of title under section 38 of Act 496 and ordering the remand of the case for trial and disposition on the merits. Petitioner's complaint is not barred by the cited Act since it duly alleges that respondent's torrens title was issued pursuant to a free patent covering forest or timber land which is not disposable under the Public Land Act and if these factual allegations are duly established at the trial, petitioner would be entitled to a judgment that the patent and title of respondent, being part of the forest zone, are null and void.

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