

**VICENTE E. KAYABAN AND FLORENTINA LAGASCA--KAYABAN,
PETITIONERS, VS. THE REPUBLIC OF THE PHILIPPINES AND
HONORABLE VICENTE M. SANTIAGO, JR., AS PRESIDING JUDGE OF
BRANCH V, CFI ...**

G.R. No. L-33307. August 30, 1973

Ponente: MAKALINTAL, Actg. C.J.

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MAKALINTAL, Actg. C.J.:

The present case started with an action for illegal detainer filed in the municipal court of Alcala, Pangasinan on April 20, 1967 and docketed therein as Civil Case No. 246. The plaintiff was Vicente Kayaban, one of the petitioners herein, the other petitioner being his wife Florentina Lagasca-Kayaban; and the defendants were the spouses Benjamin Orpindo and Leonila Aguilar-Orpindo. The property involved was Lot No. 9, one of several lots covered by O.C.T. No. P-1214 in the plaintiff's name. Another title, O.C.T. No. P-1215, covering other lots, was in the name of his wife Florentina, and both were issued way back on September 22, 1956 as a result of free patent applications filed by them in 1955.

On July 12, 1967, just before the hearing of the illegal detainer case was terminated in the municipal court, the Orpindo spouses, together with Rueva Whiting Vda. de Kayaban and her children, filed a complaint against the Kayaban spouses in the Court of First Instance of Pangasinan for reconveyance of Lot No. 9, which complaint was docketed as Civil Case No. U-1022. Sometime later the illegal detainer case was decided adversely to the plaintiff, who thereupon appealed to the Court of First Instance, where the case was docketed as Civil Case No. U-1034.

Still later, upon a letter-complaint to the Solicitor General's Office by the lawyer for the Orpindos, the said Office filed, on December 17, 1968, an action for annulment of the two free patent titles of the Kayabans and for reversion of the lands covered thereby to the State. The case was docketed as Case No. U-2080.

The three cases - U-1022, U-1034 and U-2080 - were consolidated and tried jointly before respondent court, which rendered its decision on July 31, 1970. Case No. U-1022, for reconveyance, was dismissed and the property involved therein was declared to be the "absolute and exclusive property of defendant Vicente Kayaban." Case No. U-2034, for illegal detainer, was decided in favor of the plaintiff therein Vicente Kayaban and the defendants were ordered to vacate the land and to pay monthly rentals thereon until possession was finally restored to the plaintiff. The losing parties in those two cases did not appeal from the decision, which consequently became final.

The petition now before Us is by the spouses Vicente Kayaban and Florentina Lagasca-Kayaban for review of the decision insofar as Civil Case No. U-2080 is concerned. The dispositive portion of that decision is as follows:

"xxx xxx xxx xxx"

"3. In Civil Case No. 2080, Original Certificates of Title Nos. P-1214 and P-1215 subject-matter thereof and under the names of Vicente Kayaban and Florentina Lagasca-Kayaban are hereby declared null and void;

however, they are hereby declared to be the rightful and exclusive owners and possessors of all the properties therein covered, with the right to apply for the confirmation of their titles thereto in a proper judicial proceedings. The Philippine National Bank[*] having acted in good faith is absolved of any liability, and its right to recover on the mortgage loan may be enforced. With-out pronouncement as to attorney's fees and costs."

The facts as found by the respondent court on the basis of the evidence submitted by the petitioners are as follows: The lands covered by the two titles were inherited by Vicente Kayaban and his co-heirs from their father and common predecessor-in-interest, Gabriel Kayaban, whose last will was admitted to probate in 1923. After the properties were partitioned, Vicente Kayaban acquired the shares of his co-heirs by purchase and afterwards he and his wife applied for and obtained the two free patent titles in question.

The respondent court recognized and declared the petitioners to be the rightful and exclusive owners of the properties covered by the said titles and denied the Solicitor General's prayer that they be reverted to the State, but nevertheless declared the titles null and void on the ground that since the owners had acquired the properties partly by inheritance from their father and the rest by purchase from their co-heirs, and their father had been in possession thereof for many years before them, the lands were no longer public and hence not subject to disposition by the government under the Public Land Act. The procedure that should have been followed, said the court, was judicial confirmation of an imperfect title and not administrative legalization thereof through patent application.

We find the present appeal meritorious. We note in the first place that nowhere in the record is it shown that the complaint in Case No. U-2080 for annulment of the appellants' titles and for reversion of the lands covered thereby to the State was filed at the behest of the Director of Lands. What does appear in the stipulation of facts submitted by the parties below is as follows:

"x x x x x x x x x x."

"6. That this instant case praying primarily to declare 'null and void' the Original Certificates of Titles Nos. P-1214 and P-1215, has been initiated by Atty. Nestor C. Fernandez upon his letter complaint to the Solicitor General's Office;

"7. That Atty. Nestor C. Fernandez is neither a claimant, possessor, nor does he have any right whatsoever over any portion of the lands covered by the Original Certificates of Titles Nos. P-1214 and P-1215."

Since it was the Director of Lands who processed and approved the applications of the appellants and who ordered the issuance of the corresponding free patents in their favor in his capacity as administrator of the disposable lands of the public domain, the action for annulment should have been initiated by him, or at least with his prior authority and consent.

In the second place, the dictum of the lower court that the appellants chose the wrong remedy in applying for free patents instead of obtaining a judicial confirmation of their imperfect titles involves a technicality that is of no material consequence now in view of the declaration by the same court that the appellants are the rightful and exclusive owners of the lands covered by said titles. Indeed, insofar as the kind of land that may be the subject of one or the other remedy is concerned, there is no difference between them. Both refer to public lands suitable for agricultural purposes; both require continuous occupation and cultivation either by the applicant himself or through his predecessors-in-interest for a certain length of time; and both are modes of confirming an imperfect or incomplete title - one judicially and the other administratively.[**] The fact that the appellants inherited part of the lands in question from their father and acquired the rest by purchase from their co-heirs does not necessarily imply that they had become private lands in the sense of being no longer subject to disposal under the provisions

of the Public Land Act. What is not to be denied is that in connection with their free patent applications the appellants, as well as the Director of Lands, considered the lands as still part of the public domain, although the appellants had an imperfect title to them. The following statement in the decision of this Court in the case of Antonio vs. Barroga, 23 SCRA 360 (April 29, 1968) is apropos:

"It is true that by filing the application for a free patent Barroga impliedly admitted either the invalidity or insufficiency of Titulo Real No. 12479 issued in the name of his predecessor-in-interest on July 22, 1894, but neither the allegation made in his answer that his aforesaid predecessor-in-interest was the absolute owner of the property covered by said Titulo Real nor his implied admission of the latter's invalidity or insufficiency are grounds for the annulment of the free patent and original certificate of title in question. Evidently, it was Barroga's privilege to rely or not to rely upon his claim of private ownership in favor of his predecessor-in-interest and whatever the latter's Titulo Real was worth. He decided not to rely upon them and to consider instead that the property covered by the Titulo Real was still a part of the public domain. Acting accordingly he applied for a free patent and was successful. It must be borne in mind that the Titulo Real was not an indefeasible title and that its holder still had to prove that he possessed the land covered by it without interruption during a period of ten years by virtue of a good title and in good faith (Royal Decree of June 25, 1880). We may well presume that Barroga felt that he had no sufficient evidence to prove this, for which reason he decided to acquire the land as part of the public domain." (Italics supplied)

Finally, whether the titles in question were obtained through judicial or administrative legalization of imperfect or incomplete title is of no practical importance. The certificates of title in either case is the same, namely, that provided for in Section 122 of Act No. 496, which, except for some restrictions as to alienability within a period of five (5) years from and after issuance of the patent, is entitled to all the protection afforded by the Torrens System of registration.

WHEREFORE, the decision appealed from (Case No. U-2080) is reversed insofar as it declares null and void Original Certificates of Title Nos. P-1214 and P-1215 in the names of Vicente Kayaban and Florentina Lagasca-Kayaban, respectively. No pronouncement as to costs.

Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.
Antonio, J., took no part.

[*] The land covered by O.C.T. No. P-1214 had been mortgaged to the Philippine National Bank.

[**] Comm. Act No. 141, Sec. 11.

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