

LUCIO ROBLES, EMETERIA ROBLES, ALUDIA ROBLES AND EMILIO ROBLES, PETITIONERS, VS. COURT OF APPEALS, SPOUSES VIRGILIO SANTOS AND BABY RUTH CRUZ, RURAL BANK OF CARDONA, INC., HILAR...

G.R. No. 123509. March 14, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

To be entitled to the remedy of quieting of title, petitioners must show that they have title to the real property at issue, and that some deed or proceeding beclouds its validity or efficacy. Buyers of unregistered real property, especially banks, must exert due diligence in ascertaining the titles of mortgagors and sellers, lest some innocent parties be prejudiced. Failure to observe such diligence may amount to bad faith and may result in the nullity of the mortgage, as well as of the subsequent foreclosure and/or auction sale. Unless the co-ownership is clearly repudiated, a co-owner cannot, by prescription, acquire title to the shares of the other co-owners.

The Case

Before us is a Petition for Review under Rule 45, assailing the June 15, 1995 Decision and the January 15, 1996 Resolution of the Court of Appeals[1] (CA) in CA-GR CV No. 34213.[2] In its Decision, the CA ruled:[3]

"WHEREFORE, the trial court's June 17, 1991 decision is REVERSED and SET ASIDE, and in lieu thereof a new one is hereby entered ordering the dismissal of the plaintiffs-appellees['] second amended complaint."

Earlier, the trial court had disposed as follows:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring free patent Title No. IV-1-010021 issued by the Bureau of Lands as null and void;
2. Ordering the defendant spouses Vergel Santos and Ruth Santos to deliver the property subject of this case to the plaintiff; and
3. Declaring the heirs of Silvino Robles as the absolute owner of the land in controversy."

The January 15, 1996 CA Resolution denied petitioners' Motion for Reconsideration.

The Facts

The present Petition is rooted in a case for quieting of title before the Regional Trial Court of Morong, Rizal, filed on March 14, 1988,[4] by Petitioners Lucio Robles, Emeteria Robles, Aludia Robles and Emilio Robles. The facts were narrated by the trial court in this wise:

"There seems to be no dispute that Leon Robles primitively owned the land situated in Kay Taga, Lagundi, Morong, Rizal with an area of 9,985 square meters. He occupied the same openly and adversely. He also

declared the same in his name for taxation purposes as early as 1916 covered by Tax Declaration No. 17865 (Exh. "I") and paid the corresponding taxes thereon (Exh. "B"). When Leon Robles died, his son Silvino Robles inherited the land, who took possession of the land, declared it in his name for taxation purposes and paid the taxes thereon.

"Upon the death of Silvino Robles in 1942, his widow Maria de la Cruz and his children inherited the property. They took adverse possession of said property and paid taxes thereon. The task of cultivat[ing] the land was assigned to plaintiff Lucio Robles who planted trees and other crops. He also built a nipa hut on the land. The plaintiffs entrusted the payment of the land taxes to their co-heir and half-brother, Hilario Robles.

"In 1962, for unknown reasons, the tax declaration of the parcel of land in the name of Silvino Robles was canceled and transferred to one Exequiel Ballena (Exh. "19"), father of Andrea Robles who is the wife of defendant Hilario Robles. Thereafter, Exequiel Ballena secured a loan from the Antipolo Rural Bank, using the tax declaration as security. Somehow, the tax declaration was transferred [to] the name of Antipolo Rural Bank (Exh. "17") and later on, was transferred [to] the name of defendant Hilario Robles and his wife (Exh. "16").

"In 1996, Andrea Robles secured a loan from the Cardona Rural Bank, Inc., using the tax declaration as security. Andrea Robles testified without contradiction that somebody else, not her husband Hilario Robles, signed the loan papers because Hilario Robles was working in Marinduque at that time as a carpenter.

"For failure to pay the mortgage debt, foreclosure proceedings were had and defendant Rural Bank emerged as the highest bidder during the auction sale in October 1968.

"The spouses Hilario Robles failed to redeem the property and so the tax declaration was transferred in the name of defendant Rural Bank. On September 25, 1987, defendant Rural Bank sold the same to the Spouses Vergel Santos and Ruth Santos.

"In September 1987, plaintiff discovered the mortgage and attempted to redeem the property, but was unsuccessful. On May 10, 1988, defendant spouses Santos took possession of the property in question and was able to secure Free Patent No. IV-1-010021 in their names."[5]

On the other hand, the Court of Appeals summarized the facts of the case as follows:

"The instant action for quieting of title concerns the parcel of land bounded and more particularly described as follows:

"A parcel of land located at Kay Taga, Lagundi, Morong, Rizal. Bounded [i]n the north by the property of Venancio Ablay y Simeon Ablay; [i]n the east by the property of Veronica Tulak y Dionisio Ablay; [i]n the south by the property of Simeon Ablay y Dionisio Ablay; and [i]n the west by the property of Dionisio Ablay y Simeon Ablay, with an area of 9,985 square meters, more or less, assessed in the year 1935 at P60.00 under Tax Declaration No. 23219.

"As the heirs of Silvino Robles who, likewise inherited the above-described parcel from Leon Robles, the siblings Lucio, Emeteria, Aludia and Emilio, all surnamed Robles, commenced the instant suit with the filing of their March 14, 1988 complaint against Spouses Virgilio and Ruth Santos, as well as the Rural Bank of Cardona, Inc. Contending that they had been in possession of the land since 1942, the plaintiff alleged, among other matters, that it was only in September of 1987 that they came to know of the foreclosure of the real estate mortgage constituted thereon by the half-brother, Hilario Robles, in favor of defendant Rural Bank; and that they likewise learned upon further inquiry, that the latter had already sold the self-same parcel in favor of the Santos spouses (pp. 1-3, orig. rec.). Twice amended to implead Hilario Robles (pp. 76-80, orig. rec) and, upon subsequent discovery of the issuance of Free Patent No. IV-I-010021 in favor of the defendant spouses, the Director of Lands and the District Land Officer of the Bureau of Lands as parties-defendants (pp. 117-121, orig. rec). The plaintiffs' complaint sought the following reliefs on the theory that the encumbrance of their half-brother, constituted on the

land, as well as all proceedings taken subsequent thereto, were null and void, to wit:

"Wherefore, it is respectfully prayed that (a) a preliminary mandatory injunction be issued forthwith restoring plaintiffs to their possession of said parcel of land; (b) an order be issued annulling said Free Patent No. IV-I-010021 in the name of defendants spouses Vergel Santos and Ruth C. Santos, the deed of sale aforementioned and any tax declaration which have been issued in the name of defendants; and (c) ordering defendants jointly and severally, to pay plaintiffs the sum of P10,000.00 as attorney's fees.

"Plaintiffs pray for other relief as [may be] just and equitable under the premises." (pp. 120-121, orig. rec.)

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"With the termination of the pre-trial stage upon the parties-litigants' agreement (p. 203, orig. rec.) the trial court proceeded to try the case on the merits. It thereafter rendered the challenged June 17, 1991 decision upon the following findings and conclusions:

"The real estate mortgage allegedly executed by Hilario Robles is not valid because his signature in the mortgage deed was forged. This fact, which remains unrebutted, was admitted by Andrea Robles.

"Inasmuch as the real estate mortgage executed allegedly by Hilario Robles in favor of the defendant Cardona Rural Bank, Inc. was not valid, it stands to reason that the foreclosure proceedings therein were likewise not valid. Therefore, the defendant bank did not acquire any right arising out of the foreclosure proceedings. Consequently, defendant bank could not have transferred any right to the spouses Santos.

"The fact that the land was covered by a free patent will not help the defendant Santos any.

"There can be no question that the subject [property was held] in the concept of owner by Leon Robles since 1916. Likewise, his successor-in-interest, Silvino Robles, his wife Maria de la Cruz and the plaintiffs occupied the property openly, continuously and exclusively until they were ousted from their possession in 1988 by the spouses Vergel and Ruth Santos.

"Under the circumstances, therefore, and considering that "open, exclusive and undisputed possession of alienable public lands for the period prescribed by law (30 years), creates the legal fiction whereby the land, upon completion of the requisite period, ipso jure and without the need of judicial or other action, ceases to be public land and becomes private property. Possession of public land x x x which is [of] the character and duration prescribed by the statute is the equivalent of an express grant from the State, considering the dictum of the statute itself[:]; "The possessor x x x shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title x x x." No proof is admissible to overcome a conclusive presumption[,] and confirmation proceedings would be a little more than a formality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time. Registration thereunder would not confer title, but simply recognize a title already vested. (Cruz v. IAC, G.R. No. 75042, November 29, 1988) The land in question has become private land.

"Consequently, the issuance of [a] free patent title to the Spouses Vergel Santos and Ruth C. Santos is not valid because at the time the property subject of this case was already private land, the Bureau of Lands having no jurisdiction to dispose of the same." (pp. 257-259, orig. rec.)"

"Dissatisfied with the foregoing decision, the Santos spouses and the defendant Rural Bank jointly filed their July 6, 1991 Notice of Appeal (p.260, orig. rec.) x x x."[6]

Ruling of the Court of Appeals

In reversing the trial court, the Court of Appeals held that petitioners no longer had any title to the subject property at the time they instituted the Complaint for quieting of title. The CA ratiocinated as follows:

"As correctly urged by the appellants, the plaintiff-appellees no longer had any title to the property at the time of the institution of the instant complaint. (pp. 25-27, rec.) The latter's claim of continuous possession notwithstanding (pp. 3-5, TSN, July 5, 1990; p. 12, TSN, July 12, 1990), the aforesaid loss of title is amply evidenced by the subsequent declaration of the subject realty for taxation purposes not only in the name of Exequiel Ballena (Exhibits "1" and "2", pp. 23-24, orig. rec.) but also in the name of the Rural Bank of Antipolo (Exhibit 17, vol. II, orig. rec.). On the theory that tax declarations can be evincive of the transfer of a parcel of land or a portion thereof (*Gacos v. Court of Appeals*, 212 SCRA 214), the court a quo clearly erred in simply brushing aside the apparent transfers [which] the land in litigation had undergone. Whether legal or equitable, it cannot, under the circumstances, be gainsaid that the plaintiff-appellees no longer had any title to speak of when Exequiel Ballena executed the November 7, 1966 Deed of Absolute Sale transferring the land in favor of the spouses Hilario and Andrea Robles (Exhibit "3", p. 25, orig. rec.)

"Even on the theory that the plaintiffs-appellees and their half-brother, Hilario Robles, are co-owners of the land left behind by their common father, Silvino Robles, such title would still be effectively discounted by what could well serve as the latter's acts of repudiation of the co-ownership, i.e., his possession (p. 22, TSN, November 15, 1990) and declaration thereof for taxation purposes in his own name (Exhibit "4", p. 26, orig. rec.). In view of the plaintiffs-appellees' inaction for more than twenty (20) years from the time the subject realty was transferred in favor of Hilario Robles, the appellants correctly maintain that prescription had already set in. While it may be readily conceded that an action to quiet title to property in the possession of the plaintiff is imprescriptible (*Almanza vs. Arguelles*, 156 SCRA 718; *Coronel vs. Intermediate Appellate Court*, 155 SCRA 270; *Caragay-Layno vs. Court of Appeals*, 133 SCRA 718; *Charon Enterprises vs. Court of Appeals*, 124 SCRA 784; *Faja vs. Court of Appeals*, 75 SCRA 441; *Burton vs. Gabar*, 55 SCRA 4999), it equally bears emphasis that a co-owner or, for that matter, the said co-owner['s] successors-in-interest who occupy the community property other than as co-owner[s] can claim prescription as against the other co-owners (*De Guzman vs. Austria*, 148 SCRA 75; *Ramos vs. Ramos*, 45 Phil. 362; *Africa vs. Africa*, 42 Phil. 902; *Bargayo vs. Camumot*, 40 Phil. 857; *De Castro vs. Echarri*, 20 Phil. 23). If only in this latter sense, the appellants correctly argue that the plaintiffs-appellees have lost their cause of action by prescription.

"Over and above the foregoing considerations, the court a quo gravely erred in invalidating the real estate mortgage constituted on the land solely on the basis of Andrea Robles' testimony that her husband's signature thereon was forged (p. 257, orig. rec.),

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"In according to the foregoing testimony x x x credibility which, while admittedly un rebutted, was altogether uncorroborated, the trial court lost sight of the fact that the assailed deed of real estate mortgage (Exhibit "5", Vol. II, orig. rec.) is a public document, the acknowledgment of which is a prima facie evidence of its due execution (*Chua vs. Court of Appeals*, 206 SCRA 339). As such, it retains the presumption of validity in the absence of a full, clear and convincing evidence to overcome such presumption (*Agdeppa vs. Ibe*, 220 SCRA 584).

"The foregoing principles take even more greater [sic] when it is, moreover, borne in mind that Hilario Robles made the following admissions in his March 8, 1989 answer, viz:

"3. The complaint filed against herein answering defendant has no legal basis considering that as the lawful owner of the subject real property, defendant Hilario Robles has the right to mortgage the said real property and could dispose the same in whatever manner he wishe[s] to do." (p. 96, orig. rec.)

"Appropriately underscored by the appellants, the foregoing admission is binding against Hilario [Robles]. Judicial admissions, verbal or written, made by the parties in the pleadings or in the course of the trial or other proceedings in the same case are conclusive, no evidence being required to prove the same. They cannot be contradicted unless shown to have been made through [a] palpable mistake or [unless] no such admission was actually made (*Philippine American General Insurance, Inc. vs. Sweet Lines, Inc.*, 212 SCRA 194).

"It does not help the plaintiffs-appellees' cause any that, aside from complying with the requirements for the foreclosure of the subject real estate mortgage (Exhibits "6", "7", "8" and "10", Volume II[]), the appellant Rural Bank had not only relented to the mortgagor's request to postpone the (Exhibit "g", Vol. II, orig. rec.) but had likewise granted the latter's request for an extension of the redemption period therefor (Exhibits "11" and "12", pp. 35-36, orig. rec.). Without going into minute detail in discussing the Santos spouses' rights as purchasers for value and in good faith (Exhibit "21", Vol. II, orig. rec.), the mortgagor and the plaintiffs-appellees cannot now be heard to challenge the validity of the sale of the land after admittedly failing to redeem the same within the extension the appellant Rural Bank granted (pp. 10-11, TSN, November 15, 1990).

"Being dependent on the supposed invalidity of the constitution and foreclosure of the subject real estate mortgage, the plaintiffs-appellees' attack upon x x x Free Patent No. IV-I must necessarily fail. The trial court, therefore, misread, and ignored the evidence o[n] record, to come up with erroneous conclusion."

Contending that such ruling was contrary to law and jurisprudence, Petitioners Lucio, Emeteria, Aludia and Emilio — all surnamed Robles — filed this Petition for Review.[7]

The Assigned Error

Petitioners ascribe the following error to the respondent court:

"Respondent Court of Appeals grievously erred in ruling that with the transfers of the tax declaration over the parcel of land in question from Silvino Robles to Exequiel Ballena, then to the Rural Bank of Antipolo, then to Respondent Hilario Robles, then to Respondent Rural Bank of Cardona Inc., and then finally to Respondent Spouses Santos, petitioners, who by themselves and their predecessors in interest have been in open, actual and adverse possession of said parcel of land since 1916 up to their forced removal therefrom in 1988, have lost their title to said property by prescription to their half-brother, Respondent Hilario Robles, and then finally, to Respondent Spouses Santos."[8]

For a better understanding of the case, the above issue will be broken down into three points: first, the nature of the remedy of quieting of title; second, the validity of the real estate mortgage; and third, the efficacy of the free patent granted to the Santos spouses.

First Issue:

Quieting of Title

Article 476 of the Civil Code provides:

"Whenever there is cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet title.

"An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein."

Based on the above definition, an action to quiet title is a common-law remedy for the removal of any cloud or doubt or uncertainty on the title to real property.[9] It is essential for the plaintiff or complainant to have a legal or an equitable title to or interest in the real property which is the subject matter of the action.[10] Also, the deed, claim, encumbrance or proceeding that is being alleged as a cloud on plaintiff's title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy.[11]

That there is an instrument or a document which, on its face, is valid and efficacious is clear in the present case.

Petitioners allege that their title as owners and possessors of the disputed property is clouded by the tax declaration and, subsequently, the free patent thereto granted to Spouses Vergel and Ruth Santos. The more important question to be resolved, however, is whether the petitioners have the appropriate title that will entitle them to avail themselves of the remedy of quieting of title. *Nexold*

Petitioners anchor their claim to the disputed property on their continued and open occupation and possession as owners thereof. They allege that they inherited it from their father, Silvino, who in turn had inherited it from his father, Leon. They maintain that after their father's death, they agreed among themselves that Petitioner Lucio Robles would be tending and cultivating it for everyone, and that their half-brother Hilario would be paying the land taxes.

Petitioners insist that they were not aware that from 1962 until 1987, the subject property had been declared in the names of Exequiel Ballena, the Rural Bank of Antipolo, Hilario Robles, the Rural Bank of Cardona, Inc., and finally, Spouses Vergel and Ruth Santos. Maintaining that as co-owners of the subject property, they did not agree to the real estate mortgage constituted on it, petitioners insist that their shares therein should not have been prejudiced by Hilario's actions. *Miso*

On the other hand, Private Respondents Vergel and Ruth Santos trace their claim to the subject property to Exequiel Ballena, who had purportedly sold it to Hilario and Andrea Robles. According to private respondents, the Robles spouses then mortgaged it to the Rural Bank of Cardona, Inc. — not as co-owners but as absolute owners — in order to secure an agricultural loan worth P2,000. Upon their failure to pay their indebtedness, the mortgage was foreclosed and the property sold to the bank as the highest bidder. Thereafter, private respondents purchased the property from the bank. *Sppedjo*

Undisputed is the fact that the land had previously been occupied by Leon and later by Silvino Robles, petitioners' predecessors-in-interest, as evidenced by the different tax declarations issued in their names. Also undisputed is the fact that the petitioners continued occupying and possessing the land from the death of Silvino in 1942 until they were allegedly ousted therefrom in 1988. In 1962, the subject property was declared in the name of Exequiel for taxation purposes. On September 30, 1965, it was again declared in the same name; on October 28, 1965, in the name of the Rural Bank of Antipolo; on November 7, 1966, in the name of Hilario and Andrea; and thereafter, in the name of the Rural Bank of Cardona and, finally, in the name of the Santos spouses.

Ostensibly, the Court of Appeals failed to consider irregularities in the transactions involving the disputed property. First, while it was declared in the name of Exequiel in 1962, there was no instrument or deed of conveyance evidencing its transfer from the heirs of Silvino to him. This fact is important, considering that the petitioners are alleging continued possession of the property. Second, Exequiel was the father-in-law of Hilario, to whom petitioners had entrusted the payment of the land taxes. Third, considering that the subject property had been mortgaged by Exequiel to the Rural Bank of Antipolo, and that it was foreclosed and in fact declared in the bank's name in 1965, why was he able to sell it to Spouses Hilario and Andrea in 1966? Lastly, inasmuch as it was an unregistered parcel of land, the Rural Bank of Cardona, Inc., did not observe due diligence in determining Hilario's title thereto.

The failure to show the indubitable title of Exequiel to the property in question is vital to the resolution of the present Petition. It was from him that Hilario had allegedly derived his title thereto as owner, an allegation which thereby enabled him to mortgage it to the Rural Bank of Cardona. The occupation and the possession thereof by the petitioners and their predecessors-in-interest until 1962 was not disputed, and Exequiel's acquisition of the said property by prescription was not alleged. Thus, the deed of conveyance purportedly evidencing the transfer of ownership and possession from the heirs of Silvino to Exequiel should have been presented as the best proof of

that transfer. No such document was presented, however.

Therefore, there is merit to the contention of the petitioners that Hilario mortgaged the disputed property to the Rural Bank of Cardona in his capacity as a mere co-owner thereof. Clearly, the said transaction did not divest them of title to the property at the time of the institution of the Complaint for quieting of title.

Contrary to the disquisition of the Court of Appeals, Hilario effected no clear and evident repudiation of the co-ownership. It is a fundamental principle that a co-owner cannot acquire by prescription the share of the other co-owners, absent any clear repudiation of the co-ownership. In order that the title may prescribe in favor of a co-owner, the following requisites must concur: (1) the co-owner has performed unequivocal acts of repudiation amounting to an ouster of the other co-owners; (2) such positive acts of repudiation have been made known to the other co-owners; and (3) the evidence thereof is clear and convincing.[12]

In the present case, Hilario did not have possession of the subject property; neither did he exclude the petitioners from the use and the enjoyment thereof, as they had indisputably shared in its fruits.[13] Likewise, his act of entering into a mortgage contract with the bank cannot be construed to be a repudiation of the co-ownership. As absolute owner of his undivided interest in the land, he had the right to alienate his share, as he in fact did.[14] Neither should his payment of land taxes in his name, as agreed upon by the co-owners, be construed as a repudiation of the co-ownership. The assertion that the declaration of ownership was tantamount to repudiation was belied by the continued occupation and possession of the disputed property by the petitioners as owners.

Second Issue:

Validity of the Real Estate Mortgage

In a real estate mortgage contract, it is essential that the mortgagor be the absolute owner of the property to be mortgaged; otherwise, the mortgage is void.[15] In the present case, it is apparent that Hilario Robles was not the absolute owner of the entire subject property; and that the Rural Bank of Cardona, Inc., in not fully ascertaining his title thereto, failed to observe due diligence and, as such, was a mortgagee in bad faith.

First, the bank was utterly remiss in its duty to establish who the true owners and possessors of the subject property were. It acted with precipitate haste in approving the Robles spouses' loan application, as well as the real estate mortgage covering the disputed parcel of land.[16] Had it been more circumspect and assiduous, it would have discovered that the said property was in fact being occupied by the petitioners, who were tending and cultivating it.

Second, the bank should not have relied solely on the Deed of Sale purportedly showing that the ownership of the disputed property had been transferred from Exequiel Ballena to the Robles spouses, or that it had subsequently been declared in the name of Hilario. Because it was dealing with unregistered land, and the circumstances surrounding the transaction between Hilario and his father-in-law Exequiel were suspicious, the bank should have exerted more effort to fully determine the title of the Robleses. *Rural Bank of Compostela v. Court of Appeals*[17] invalidated a real estate mortgage after a finding that the bank had not been in good faith. The Court explained: "The rule that persons dealing with registered lands can rely solely on the certificate of title does not apply to banks." In *Tomas v. Tomas*, the Court held:

"x x x. Banks, indeed, should exercise more care and prudence in dealing even with registered lands, than private individuals, for their business is one affected with public interest, keeping in trust money belonging to their depositors, which they should guard against loss by not committing any act of negligence which amounts to lack of good faith by which they would be denied the protective mantle of land registration statute, Act 496, extended only to purchasers for value and in good faith, as well as to mortgagees of the same character and description. x x x." [18]

Lastly, the Court likewise finds it unusual that, notwithstanding the bank's insistence that it had become the owner of the subject property and had paid the land taxes thereon, the petitioners continued occupying it and harvesting the fruits therefrom.[19]

Considering that Hilario can be deemed to have mortgaged the disputed property not as absolute owner but only as a co-owner, he can be adjudged to have disposed to the Rural Bank of Cardona, Inc., only his undivided share therein. The said bank, being the immediate predecessor of the Santos spouses, was a mortgagee in bad faith. Thus, justice and equity mandate the entitlement of the Santos spouses, who merely stepped into the shoes of the bank, only to what legally pertains to the latter — Hilario's share in the disputed property. Missc

Third Issue:

Efficacy of Free Patent Grant

Petitioners repeatedly insist that the disputed property belongs to them by private ownership and, as such, it could not have been awarded to the Santos spouses by free patent. They allege that they possessed it in the concept of owners — openly, peacefully, publicly and continuously as early as 1916 until they were forcibly ousted therefrom in 1988. They likewise contend that they cultivated it and harvested its fruits. Lucio Robles testified:

"xxx xxx xxx

Q By the way, why do you know this parcel of land?

A Because before my father died, he showed me all the documents.

Q Before the death of your father, who was the owner of this parcel of land?

A My father, sir.

Q How did your father acquire this parcel of land?

A My father knew that it [was] by inheritance, sir.

Q From whom?

A From his father, Leon Robles, sir.

Q And do you know also [from] whom Leon Robles acquired this land?

A It was inherited from his father, sir.

Q What is the nature of this parcel of land?

A It's an agricultural land, sir,

Q Now, at the time of the death of your father, this land was planted with what crops?

A Mango trees, santol trees, and I was the one who planted those trees, sir.

Q When did you plant those trees?

A Before the death of my father, sir.

Q Now, after the death of your father, who cultivated this parcel of land?

A I took charge of the land after the death of my father, sir.

Q Up to when?

A Up to the present, sir, after this case was already filed."[20]

The preceding claim is an assertion that the subject property is private land. The petitioners do not concede, and the records do not show, that it was ever an alienable land of the public domain. They allege private ownership thereof, as evidenced by their testimonies and the tax declarations issued in the names of their predecessors-in-interest. It must be noted that while their claim was not corroborated by other witnesses, it was not controverted by the other parties, either.

Carlos Dolores insisted that the Rural Bank of Cardona, Inc., of which he was the manager, had acquired and possessed the subject property. He did not, however, give any reason why the petitioners had continued occupying it, even as he admitted on the stand that he had visited it twice.[21]

In the light of their open, continuous, exclusive and notorious possession and occupation of the land, petitioners are "deemed to have acquired, by operation of law, a right to a grant, a government grant, without the necessity of a certificate of title being issued." [22] The land was "segregated from the public domain." Accordingly, the director of lands had no authority to issue a free patent thereto in favor of another person. Verily, jurisprudence holds that a free patent covering private land is null and void.[23]

Worth quoting is the disquisition of the Court in *Agne v. Director of Lands*, [24] in which it held that a riparian owner presently in possession had a better right over an abandoned river bed than had a registered owner by virtue of a free patent.

"Under the provisions of Act 2874 pursuant to which the title of private respondents' predecessor-in-interest was issued, the President of the Philippines, or his alter ego, the Director of Lands, has no authority to grant a free patent for land that has ceased to be a public land and has passed to private ownership and a title so issued is null and void. The nullity arises, not from fraud or deceit, but from the fact that the land is not under the jurisdiction of the Bureau of Lands. The jurisdiction of the Director of Lands is limited only to public lands and does not cover lands publicly owned. The purpose of the Legislature in adopting the former Public Land Act, Act No. 2874, was and is to limit its application to lands of the public domain, and lands held in private ownership are not included therein and are not affected in any manner whatsoever thereby. Land held in freehold or fee title, or of private ownership, constitutes no part of the public domain, and cannot possibly come within the purview of said act 2874, inasmuch as the 'subject' of such freehold or private land is not embraced in any manner in the title of the Act and the same is excluded from the provisions of the text thereof.

"We reiterate that private ownership of land is not affected by the issuance of the free patent over the same land because the Public Land Act applies only to lands of the public domain. Only public land may be disposed of by the Director of Lands. Since as early as 1920, the land in dispute was already under the private ownership of herein petitioners and no longer a part of the lands of the public domain, the same could not have been the subject matter of a free patent. The patentee and his successors-in-interest acquired no right or title to said land. Necessarily, Free Patent No. 23263 issued to Herminigildo Agpoon is null and void and the subsequent titles issued pursuant thereto cannot become final and indefeasible. Hence we ruled in *Director of Lands v. Sicsican, et al.* that if at the time the free patents were issued in 1953 the land covered therein were already private property of another and, therefore, not part of the disposable land of the public domain, then applicants patentees acquired no right or title to the land.

"Now, a certificate of title fraudulently secured is null and void ab initio if the fraud consisted in misrepresenting that the land is part of the public domain, although it is not. As earlier stated, the nullity arises, not from the fraud or deceit, but from the fact that the land is not under the jurisdiction of the Bureau of Lands. Being null and void, the free patent granted and the subsequent titles produce no legal effect whatsoever. Quod nullum est, nullum producit effectum.

"A free patent which purports to convey land to which the government did not have any title at the time of its

issuance does not vest any title in the patentee as against the true owner. The Court has previously held that the Land Registration Act and the Cadastral Act do not give anybody who resorts to the provisions thereof a better title than what he really and lawfully has.

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"We have, therefore, to arrive at the unavoidable conclusion that the title of herein petitioners over the land in dispute is superior to the title of the registered owner which is a total nullity. The long and continued possession of petitioners under a valid claim of title cannot be defeated by the claim of a registered owner whose title is defective from the beginning."

The Santos spouses argue that petitioners do not have the requisite personality to question the free patent granted them, inasmuch as "it is a well-settled rule that actions to nullify free patents should be filed by the Office of the Solicitor General at the behest of the Director of Lands." [25]

Private respondents' reliance on this doctrine is misplaced. Indeed, the Court held in *Peltan Development, Inc. v. Court of Appeals* [26] that only the solicitor general could file an action for the cancellation of a free patent. Ruling that the private respondents, who were applicants for a free patent, were not the proper parties in an action to cancel the transfer certificates covering the parcel of land that was the subject of their application, the Court ratiocinated thus:

The Court also holds that private respondents are not the proper parties to initiate the present suit. The complaint, praying as it did for the cancellation of the transfer certificates of title of petitioners on the ground that they were derived from a "spurious" OCT No. 4216, assailed in effect the validity of said title. While private respondents did not pray for the reversion of the land to the government, we agree with the petitioners that the prayer in the complaint will have the same result of reverting the land to the government under the Regalian Doctrine. *Gabila v. Barinaga* [27] ruled that only the government is entitled to this relief. x x x."

Because the cancellation of the free patent as prayed for by the private respondents in *Peltan* would revert the property in question to the public domain, the ultimate beneficiary would be the government, which can be represented by the solicitor general only. Therefore, the real party-in-interest is the government, not the private respondents.

This ruling does not, however, apply to the present case. While the private respondents in *Peltan* recognized that the disputed property was part of the public domain when they applied for free patent, [28] herein petitioners asserted and proved private ownership over the disputed parcel of land by virtue of their open, continued and exclusive possession thereof since 1916.

Neither does the present case call for the reversion of the disputed property to the State. By asking for the nullification of the free patent granted to the Santos spouses, the petitioners are claiming the property which, they contend, rightfully belongs to them.

Indeed, the same issue was resolved by this Court in *Heirs of Marciano Nagano v. Court of Appeals*. [29] In that case, the trial court dismissed a Complaint seeking the declaration of nullity of an Original Certificate of Title issued pursuant to a free patent, reasoning that the action should have been instituted by the solicitor general. In reversing the trial court, the Supreme Court held:

"It is settled that a Free Patent issued over private land is null and void, and produces no legal effect whatsoever. *Quod nullum est, nullum producit effectum*. Moreover, private respondents' claim of open, peaceful, continuous and adverse possession of the 2,250 square meter portion since 1920, and its illegal inclusion in the Free Patent of petitioners and in their original certificate of title, gave private respondents a cause of action for quieting of title which is imprescriptible."

In any event, the Office of the Solicitor General was afforded an opportunity to express its position in these proceedings. But it manifested that it would not file a memorandum, because "this case involves purely private interests." [30]

The foregoing considered, we sustain the contention of petitioners that the free patent granted to the Santos spouses is void. It is apparent that they are claiming ownership of the disputed property on the basis of their possession thereof in the concept of owners — openly, peacefully, publicly, continuously and adversely since 1916. Because they and their predecessors-in-interest have occupied, possessed and cultivated it as owners for more than thirty years, [31] only one conclusion can be drawn — it has become private land and is therefore beyond the authority of the director of lands. Misspelled

Epilogue

We recognize that both the petitioners and the Santos spouses fell victim to the dubious transaction between Spouses Hilario and Andrea Robles and the Rural Bank of Cardona, Inc. However, justice and equity mandate that we declare Petitioners Lucio, Emerita, Aludia and Emilio Robles to have the requisite title essential to their suit for quieting of title. Considering the circumstances peculiar to this complicated problem, the Court finds this conclusion the logical and just solution.

The claim that petitioners were guilty of laches in not asserting their rights as owners of the property should be viewed in the light of the fact that they thought their brother was paying the requisite taxes for them, and more important, the fact that they continued cultivating it and harvesting and gaining from its fruits.

From another viewpoint, it can even be said that it was the Rural Bank of Cardona, Inc., which was guilty of laches because, granting that it had acquired the subject property legally, it failed to enforce its rights as owner. It was oblivious to the petitioners' continued occupation, cultivation and possession thereof. Considering that they had possessed the property in good faith for more than ten years, it can even be argued that they thus regained it by acquisitive prescription. In any case, laches is a remedy in equity, and considering the circumstances in this case, the petitioners cannot be held guilty of it. Jurismis

In sum, the real estate mortgage contract covering the disputed property - a contract executed between Spouses Hilario and Andrea on the one hand and the Rural Bank of Cardona, Inc., on the other — is hereby declared null and void insofar as it prejudiced the shares of Petitioners Lucio, Emerita, Aludia and Emilio Robles; it is valid as to Hilario Robles' share therein. Consequently, the sale of the subject property to the Santos spouses is valid insofar as it pertained to his share only. Likewise declared null and void is Free Patent No. IV-1-010021 issued by the Bureau of Lands covering the subject property.

WHEREFORE, the Petition is hereby GRANTED. The assailed Decision is REVERSED and SET ASIDE. Except as modified by the last paragraph of this Decision, the trial court's Decision is REINSTATED. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] First Division composed of Justice Nathanael P. De Pano Jr., Division chairman and ponente; concurred in by Justices Salome A. Montoya and Hector L. Hofileña.

[2] Entitled "Lucio Robles, et al. v. Spouses Virgilio Santos and Baby Ruth Cruz, et. al."

[3] CA Decision, p. 12; rollo, p. 32.

[4] Docketed as Civil Case No. 250-M.

[5] RTC Decision, pp. 2-3; Original Records, pp. 256-257.

[6] CA Decision, pp. 3-7; rollo, pp. 23-27.

[7] The case was deemed submitted for decision on November 15, 1999, upon the receipt by the Court of the solicitor general's Manifestation and Motion in lieu of Memorandum signed by Solicitor General Ricardo P. Galvez, Assistant Solicitor General Amparo M. Cabotaje-Tang and Associate Solicitor Christopher B. Arpon. Private respondent's Memorandum, signed by Atty. Mariano H.G. Cervo, was filed on June 19, 1998; while petitioners' Memorandum, signed by Atty. Remigio D. Saladero, was received by the Court on August 5, 1997.

[8] Rollo, pp. 13-14.

[9] Vitug, Compendium of Civil Law and Jurisprudence, 1993 rev. ed., p. 295, as quoted in *Vda. de Aviles v. Court of Appeals*, 264 SCRA 473, November 21, 1996.

[10] Art. 477, Civil Code. "The plaintiff must have legal or equitable title to, or an interest in the real property which is the subject matter of the action. He need not be in possession of said property." See also *Amagan v. Marayag*, GR No. 138377, February 28, 2000.

[11] Tolentino, Civil Code of the Philippines, Vol. II, 1992 ed., p. 150.

[12] *Deiparine et al. v. Court of Appeals*, 299 SCRA 668, December 4, 1998; *Heirs of Salamat v. Tamayo*, 298 SCRA 313, October 30, 1998; *Trinidad v. Court of Appeals*, 289 SCRA 188, April 20, 1998.

[13] TSN, Nov. 15, 1990, p. 22. Andrea Robles testified:

"Q And who planted the trees planted [o]n the land?

A My children were going to that land and planted trees.

Q And who took care of those trees?

A They and us, sir.

Q When you said they, to whom [we]re you referring?

A Plaintiffs in this case, sir.

xxx xxx xxx

Q And you and the plaintiffs participated in the harvest of these plants, is that correct?

A Yes sir, and I was giving them their share.

xxx xxx xxx"

[14] Art. 493, Civil Code. "Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership."

[15] Article 2085, Civil Code. "The following requisites are essential to the contracts of pledge and mortgage:

(1) That they be constituted to secure the fulfillment of a principal obligation;

(2) That the pledgor or mortgagor be the absolute owner of the thing pledged or mortgaged.

(3) That the persons constituting the pledge or mortgage have the free disposal of their property, and in the absence thereof, that they be legally authorized for the purpose." (Italics supplied).

[16] Hilario and Andrea Robles, who had declared the disputed property under their names on November 7, 1966, following the alleged sale to them by Exequiel Ballena of the said property on the same day, applied for an agricultural loan on November 19, 1966. On November 24, 1966, the Robles spouses executed a real estate mortgage upon the said property. On November 29, 1966, the loan was released to them. (RTC Records, Vol. III, exhibits for the plaintiffs and the defendants.)

[17] 271 SCRA 76, April 8, 1997, per Davide, J. (Now CJ). See also *GSIS v. Court of Appeals*, 287 SCRA 204, March 6, 1998.

[18] 98 SCRA 280, 286, June 25, 1980, per De Castro, J. See also *Rural Bank of Sariaya v. Yacon*, 175 SCRA 62, July 5, 1989; *Gonzales v. Intermediate Appellate Court*, 157 SCRA 587, January 29, 1988. *Pichay v. Celestino*, 20 SCRA 314, May 30, 1967.

[19] TSN, July 5, 1990, pp. 4-5; TSN, July 12, 1990, pp. 6-12.

[20] TSN, July 5, 1990, pp. 4-5. Emeteria Robles' testimony supports her brother Lucio Robles' assertions regarding the fact of possession, occupation and cultivation of the property in question. See TSN, July 12, 1990, pp. 6-12.

[21] TSN, August 16, 1990, p. 21. Carlos Dolores testified:

"Q By the way, have you visited these properties from the time that your bank acquired the same from the auction sale?

A I went there after the foreclosure, sir.

Q And after that date, have you ever gone to these properties?

A Yes, sir.

Q When?

A 1987, sir."

[22] *Herico v. Dar*, 95 SCRA 437,443, January 22, 1980, per De Castro, J.

[23] *Mesina v. Vda. de Sonza et al.*, 108 Phil. 251, May 25, 1960; *Herico v. Dar*, 95 SCRA 437, January 22, 1980; *Azarcon v. Vallarta*, 100 SCRA 450, October 28, 1980; *Mendoza v. Navarette*, 214 SCRA 337, September 30, 1992; *Heirs of Marciano Nagaño v. Court of Appeals*, 282 SCRA 43, November 17, 1997.

[24] 181 SCRA 793, February 6, 1990, per Regalado, J.; italics supplied.

[25] Memorandum of the Santos spouses, p. 6; rollo, p. 81.

[26] 270 SCRA 82, March 19, 1997, per Panganiban, J. In this case, the private respondents, as plaintiffs before the trial court, filed a Complaint for Cancellation of Titles and Damages, alleging that they had been in possession of the disputed property for many years, occupying and cultivating it until they were forcibly ousted therefrom by one of the defendants. They maintained that the processing and the eventual approval of their free patent application were held in abeyance because of the alleged existence of several certificates of title, which had been derived from a fictitious or spurious original certificate of title.

[27] 41 SCRA 131, September 30, 1971.

[28] The private respondents even averred in their Complaint before the trial court that "as citizens and taxpayers of this country, they [also] have a legitimate interest in the disposition of alienable lands of the State xxx." (Peltan, *supra*, at p. 87).

[29] 282 SCRA 43, November 17, 1997, per Davide, J. (Now CJ).

[30] Manifestation and Motion in lieu of Memorandum, p. 1; rollo, p. 101.

[31] Art. 1137 of the Civil Code provides:

"Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or good faith."

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