

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR
OF LANDS, PETITIONER, VS. JOSEFINA B. VDA. DE NERI, SPS.
GRACIANO B. NERI, JR. AND VICTORIA BABIERA, SPS. VICTORIA
NERI ...**

G.R. No. 139588. March 04, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is the petition for review on certiorari filed by the Republic of the Philippines, represented by the Director of the Bureau of Lands, seeking to reverse and set aside the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 50139 affirming the decision of the Regional Trial Court of Misamis Oriental, Branch 20, Cagayan de Oro City, which, in turn, dismissed the petitioner's complaint for the annulment of Original Certificate of Title (OCT) No. 0662 and reversion. Likewise sought to be reversed and set aside is the appellate court's Resolution dated August 4, 1999, denying the petitioner's motion for reconsideration.

The antecedent facts are summarized as follows:

Lot 2821, Plan (LRC) SWO-150, approved by the Land Registration Commission, is a parcel of land with an area of 105.568 hectares located along the Cagayan de Oro River in Sitio Taguanao, Indahag, Cagayan de Oro City. On September 3, 1973, the Bureau of Forest Development certified that the property was alienable and disposable.[2] On July 24, 1974, the heirs of Graciano Neri, Sr.[3] filed an application with the then Court of First Instance of Misamis Oriental for judicial confirmation of imperfect or incomplete title, docketed as Land Registration Case No. N-531, LRC Record No. 46236. They alleged, inter alia, thus:

- That applicants GRACIANO B. NERI, JR. is of legal age, married to VICTORIA BABIERA, Filipino and residing at 833 Recto Avenue, Cagayan de Oro City; JOSEFINA B. VDA. [DE] NERI is of legal age, widow of GRACIANO A. NERI, Filipino and residing at 833 Recto Avenue, Cagayan de Oro City; VICTORIA N. FERNANDEZ is of legal age, married to MARIO FERNANDEZ, Filipino and residing at 832 Recto Avenue, Cagayan de Oro City; RAMON B. NERI is of legal age, single, Filipino and residing at 833 Recto Avenue, Cagayan de Oro City; and MA. TERESA N. YRASTORZA is of legal age, married to ALBERT YRASTORZA, Filipino and residing at 833-Y Recto Avenue, Cagayan de Oro City, hereby apply to have the land hereinafter described brought under the operation of the Land Registration Act, and to have the title thereto registered and confirmed;
- That the applicants are the owners in fee simple of a certain parcel of land situated at Barrio Indahag in the City of Cagayan de Oro, the said land bounded and described on the plan and technical description, attached hereto and made a part hereof;
- That said land at the last assessment for taxation was assessed for P33,820.00;
- That applicants do not know of any mortgage or encumbrances affecting the said land, or that any other person has any estate or interest therein legal or equitable possession, remainder, reversion or expectance;

- That applicants obtained title on said property by virtue of intestate succession from the late GRACIANO A. NERI who died on December 20, 1971 in the City of Cagayan de Oro;

- That applicants herein together with their predecessors-in-interest have been in open, public, peaceful, adverse, and continuous possession in the concept of owners and have been paying taxes thereon;

- That the said land is legally occupied by the following persons together with their families in the concept of Tenants, namely:

a) PEDRO CABALUNA residing at Indahag, Tibasak, Cagayan de Oro City

b) CERELO BADETAH residing at Indahag, Tibasak, Cagayan de Oro City

- That the names and addresses so far as known to applicants of the owners of all land adjoining the land above-mentioned are as follows:

a) JOSE F. MARFORI of Cagayan de Oro City

b) INSULAR GOVERNMENT of the PHILIPPINES

c) CAGAYAN DE ORO CITY (Cagayan River)

- This application is accompanied by the following documents:

a) Tracing plan of the lot together with a blue print copy thereof;

b) Technical description of the land;

c) Tax Declarations:

1. T.D. No. 1096

2. T.D. No. 22280

3. T.D. No. 10964

4. T.D. No. 81439

- That by the application of Sections: 47, 48, 49, 50, and 51 of Com. Act 141 as amended by Rep. Acts Nos. 107, 1942, 2061 and 2036, this application is in order and the jurisdiction of this Honorable Court exist and can be exercised in connection with this instant application.[4]

The applicants prayed that, after due proceedings, judgment be rendered in their favor in this wise:

WHEREFORE, premises considered, it is most respectfully prayed that after due notice, the validity of the alleged title or claim be inquired into and after due hearing an order be issued directing the Land Registration Commission to issue the corresponding decree over the said parcel of land so that a Certificate of Title be issued in favor of the applicants under the provisions of the Land Registration Act.

Prays for other relief in the premises.[5]

The applicants thereafter filed an amended application in the same case on December 17, 1974. On January 27, 1975, the Court, through the Land Registration Commission, issued a notice of initial hearing addressed, among others, to the Director of the Bureau of Lands, the Solicitor General, and the Bureau of Forest Development.[6] The notice was published in the February 17 and 24, 1975 issues of the Official Gazette. Copies thereof were sent by ordinary mail to the persons named therein; the copies intended for the Director of the Bureau of Lands and the Office of the Solicitor General were sent by special messenger.[7] The Solicitor General and the Director of the Bureau of Lands failed to file any opposition thereto.

On the designated time and date of the hearing, no representative from the Office of the Solicitor General and the Bureau of Lands appeared in court. The court granted the motion of the applicants for an order of general default "against the whole world," except those who filed their opposition or appeared during the hearing. The court

thereafter issued an order allowing the applicants to adduce evidence ex parte.

On February 5, 1976, the court rendered judgment granting the application. The Office of the Solicitor General, as well as the Director of the Bureau of Lands, failed to appeal the same. Thus, the court issued Decree No. N-361749, on the basis of which OCT No. 0662 was issued by the Register of Deeds of Cagayan de Oro City on September 26, 1976.

On January 5, 1981, the Office of the Solicitor General, for and in behalf of the petitioner Republic of the Philippines, through the Director of the Bureau of Lands, filed with the court a quo a complaint for annulment of OCT No. 0662 and the reversion of the property covered by the said title against herein respondents.[8] The case was docketed as Civil Case No. 7514.

In its complaint, the petitioner alleged inter alia that it is the true owner of a parcel of land of the public domain surveyed as Lot No. 2821 (subject lot) containing an area of 1,055,684 square meters or 105.5684 hectares situated in Cagayan de Oro City.[9] The petitioner also alleged that the Bureau of Forest and Development had classified the subject lot as alienable and disposable; as such, it was under the direct executive control, administration and disposition of the Director of the Bureau of Lands. Despite the fact that the Solicitor General and the Director of the Bureau of Lands were not served copies of the respondents' application for judicial confirmation of imperfect title in LRC Case No. N-531, in violation of Section 51 of Commonwealth Act No. 141, the said case was set for initial hearing on June 18, 1975. The petitioner also averred that although the survey plan of the subject lot, Plan (LRC) SWO-150, was processed and approved by the Land Registration Commission, it was not submitted to the Director of the Bureau of Lands for re-verification and approval as required by Sections 2 and 3 of Presidential Decree No. 239. As such, according to the petitioner, the court failed to acquire jurisdiction over the property.

The petitioner prayed that after due proceedings, judgment be rendered nullifying the proceedings in LRC No. N-531, as well as the court's decision therein, for lack of jurisdiction over the person of the petitioner as well as the property subject matter of the case. According to the petitioner, this is in view of the court's failure to comply with Section 51 of Commonwealth Act No. 141, which mandates that a copy of an application for judicial confirmation of imperfect title should be duly served on the Director of the Bureau of Lands; and the private respondents' failure to comply with Sections 2 and 3 of P.D. No. 239, which requires the plan to be re-verified and approved by the Director of the Bureau of Lands, in this case, Plan (LRC) SWO-150. The petitioner prayed OCT No. 0662 issued in favor of the private respondents be declared null and void.

In their answer, the private respondents averred that the subject lot had been theirs and their predecessors' private and exclusive property for more than fifty years, and that OCT No. 0662 covering the same was issued in their favor on September 20, 1976. The private respondents contended that the duty to comply with the requirement under Section 51 of CA No. 141, that the Solicitor General through the Director of the Bureau of Lands be served a copy of the application for the judicial confirmation of imperfect or incomplete title, devolved upon the clerk of court of the land registration court. They also averred that a report on the pre-verification and approval of Plan (LRC) SWO-150 had been forwarded by the Regional Director of the Bureau of Lands to the Director of the Bureau of Lands. Moreover, Plan (LRC) SWO-150 covering the subject lot had been duly processed and approved by the Land Registration Commission. According to the respondents, even if there were deficiencies on the part of the administrative officials in complying with the procedures relative to land registration, the same was not jurisdictional, but merely a procedural flaw. As such, the failure of the Bureau of Lands and the Land Registration Commission to comply with the law did not result in nullifying the proceedings in LRC Case No. N-531. Finally, the respondents countered, the action of the petitioner had long since prescribed.

In its reply, the petitioner alleged that Plan (LRC) SWO-150 was never submitted, much less approved, to the Director of the Bureau of Lands. The report required by Section 2 of P.D. No. 239 is one which the Director of the Bureau of Lands actually submitted to the court. The petitioner alleged that no such report was submitted in this case.

On October 16, 1976, the private respondents filed a motion in LRC Case No. N-531 for the issuance of a writ of possession and the demolition of the houses of the occupants. The court granted the motion. The Director of the Bureau of Lands, likewise, prayed for the suspension of the enforcement of the writ pending final resolution of Civil Case No. 7514. The court refused to suspend the enforcement of its decision.

On November 19, 1981, the Republic of the Philippines, through the Director of the Bureau of Lands, filed a petition for certiorari and prohibition with this Court, docketed as G.R. No. 58823, with the following prayer:

- Declaring as null and void the decision rendered by the court in Land Registration Case as plan (LRC) Swo-150, Cagayan de Oro City, in favor of the private defendants;
- Declaring as null and void the corresponding Decree No. N-361749 and Original Certificate of Title No. 0662 issued by the same court in favor of the private defendants;
- Ordering the Register of Deeds of Cagayan de Oro City to cancel Original Certificate of Title No. 0662 issued in the name of the private defendants;
- Ordering the reversion of the land covered by Original Certificate of Title No. 0662 to the State and declaring the same as owned and belonging to the latter; and
- Awarding such further reliefs and remedies as may be just and equitable in the premises.[10]

On March 18, 1985, this Court rendered a decision dismissing the petition without prejudice to the outcome of the petitioner's action against the private respondents in Civil Case No. 7514. The decision of the Court became final and executory.

On July 17, 1985, Leonel Valdehuesa and 22 others filed a motion for leave to intervene, and alleged, as follows: (a) They were members of the Cagayan de Oro Green Revolution Movement Association (COGREMA); (b) They had been occupying the property even before 1969 and commenced working extensive improvements thereon in 1969; (c) They filed a petition with the Presidential Action Committee on Land Problems (PACLAP) in 1973, and sought the subdivision of the property and the distribution of the lots to the occupants thereof; and, (d) As occupants, they were never informed of Graciano Neri's application in LRC Case No. N-531. The intervenors prayed that OCT No. 0662 be nullified.

In an Order dated September 6, 1985, the court a quo dismissed the complaint and the complaint-in-intervention for lack of jurisdiction to annul the judgment of the CFI in LRC No. N-531, in view of the promulgation of Batas Pambansa Blg. 129. However, on petition for certiorari filed by the petitioner, docketed as G.R. No. 72218, this Court, in its Resolution dated July 21, 1986, set aside the said order and directed the court a quo to proceed with the hearing of the case.[11]

In the meantime, the court issued an Order on April 6, 1988 denying the said motion for leave to intervene. The court later denied the motion for the reconsideration of the said order. Thereafter, Undersecretary and Officer-in-Charge of the Bureau of Lands Rolleo Ignacio executed a Special Power of Attorney authorizing Atty. Vicente Serina of the Office of the Regional Director of the Bureau of Lands to represent the petitioner during the pre-trial.[12]

During the hearing of March 27, 1989, the parties agreed to forego a full-blown trial and to instead file their

respective “Memorandum of Authority” and to submit evidence in support of their respective contentions. The court issued an order on the said date, giving the parties thirty days to submit their respective memoranda and evidence.

The petitioner submitted its memorandum, appending thereto the documents marked respectively as follows:

- 1) Exhibit A – The Certification made by the Officer-in-Charge of the Regional Director’s Office for Forestry that the property had been certified on September 3, 1973 as alienable and disposable.[13]
- 2) Exhibit B – The letter of the representatives of the Philippine Constabulary Provincial Commander and those of the Bureau of Lands, Bureau of Forest Development, and Department of Agrarian Reform to the Provincial Commander that there were 73 bona fide tillers on the property seeking to have the property subdivided and distributed to them.[14]
- 3) Exhibit C – The Letter dated October 3, 1977 from the Chief, Regional Director of the Bureau of Lands directing the District Land Officer of Cagayan de Oro to submit a report within two days from notice thereof on the letter of the occupants requesting for the subdivision of the property, viz.:

Considering the urgency of the case, you are hereby directed to submit the report within five (5) days from receipt hereof. In your report you should state whether the copy of the petition for registration was received by that Office considering that the case has come into your knowledge and if so, the date of its receipt thereof, and why the same has not been forwarded to us immediately. You should also secure a certification from the District Forest Office regarding the date of release of the area from the forest zone, as it appears that the land was only released on September 13, 1973. This information is necessary to determine whether the applicant has acquired a registerable title to the land.[15]

- 4) Exhibit D – The Report dated July 15, 1975 of the Chief Surveyor of the Land Registration Commission and Acting Chief, Division of Original Registration of the Land Registration Commission to the Court in LRC Case No. N-531. Thus:

That a certain parcel of land described on plan LRC Swo-1507, Lot 2821, Cagayan Cadastre 237, Case 1, is applied for registration of title in the above-entitled land registration case;

That upon verification of our Record of Cadastral Lots, Book No. 64, under Cad. Court Case No. 17, LRC (GLRO) Cadastral Record No. 1561, Cagayan Cadastre, Province of Misamis Oriental, it was found that said Lot 2821 is subject of the following annotations, to quote:

“Lot 2821 (129-1) Pte. de Subd. Parte Public Land.”

That it is gleaned from the aforequoted annotations that a decision has been rendered for said Lot 2821 in cadastral proceedings under Cad. Court Case No. 17, LRC (GLRO) Cadastral Record No. 1561, Cagayan Cadastre, Province of Misamis Oriental, but no decree of registration has been issued for said lot pursuant to the decision rendered in the aforementioned cadastral case. Copy, however, of said decision is not among our salvaged records. It likewise appears in the above annotations that Lot 2821 is pending subdivision and that portion of the same was declared public land;

That it is further informed that this Commission is not in a position to verify whether the land described on plan Swo-1507, Lot 2821, Cagayan Cadastre 237, Case 1, subject of this application for registration is already covered by a patent previously issued or within the forest zone.[16]

- 5) Exhibit E – The application in LRC Case No. N-531.[17]
- 6) Exhibit F – Photographs showing the Taguanao District Elementary School which stood on a portion of the subject property, to prove that more than 300 hundred families resided on the property and that its occupants had

made extensive improvements thereon.

For their part, the private respondents appended to their memorandum documentary evidence marked as follows:

Exhibit No.

Brief Description

1

Tax Declaration No. 10994 covering 1948 Lot 2821-C-1 with an area of 101.56[18]

2 to 2-G

Tax receipts over lots from 1938[19]

3

Letter of Commissioner of Land Registration to the Court dated October 31, 1974 acknowledging receipts of the duplicate records of the application and its answer in LRC Case No. N-531[20]

4

Notice of Initial Hearing in LRC Case No. N-531 dated January 27, 1975[21]

5

Certificate of Publication from Land Registration Commission dated March 24, 1975[22]

6

Letter of Land Registration Commission to counsel of applicants dated March 12, 1975[23]

7

Report of Land Registration Commission[24]

8

Letter of the Geodetic Engineer dated July 20, 1973, to the respondents[25]

9

Letter of the Administrative Assistant of the District Lands Office to the Bureau of Lands through the District Land Office dated June 3, 1975.

On January 31, 1995, the court rendered judgment dismissing the complaint on the ground that the petitioner failed to prove the factual averments therein. The dispositive portion of the decision reads:

WHEREFORE, in the light of the above, judgment is hereby rendered in favor of the defendants and against the Republic of the Philippines:

- Dismissing the complaint in the above-entitled case and no pronouncement will be made on the civil aspect herein as the answer did not claim any damages, etc.;
- Declaring as valid and legal all the proceedings taken by the Court of First Instance of Misamis Oriental, Branch 1, regarding OCT No. 0662;
- Upholding the validity and indefeasibility of Original Certificate of Title No. 0662 issued on September 20, 1976 involved herein;

- Declaring the order for issuance of a decree to issue Original Certificate of Title No. 0662 as valid and lawful; and
- Costs against plaintiff.

SO ORDERED.[26]

The trial court declared that the requisite copies of the notice of initial hearing had been transmitted to the Office of the Solicitor General and the Bureau of Lands as confirmed by Josefina Bacarusso, the incumbent Branch Clerk of Court when LRC Case No. N-531 was being heard. The court further stated that the petitioner failed to adduce at least prima facie evidence to prove the material allegations of the complaint. The presumption, then, the trial court declared, was that the personnel of Branch 1 of the CFI and the officers of the Bureau of Lands performed their duties in accordance with law, there being no evidence to the contrary. The court even noted the fact that the petitioner, through counsel, agreed to dispense with the trial and to submit the case for decision after the submission of the parties' respective memoranda and documentary evidence.

The petitioner appealed to the Court of Appeals contending that:

- THE LOWER COURT GRAVELY ERRED IN RELYING SOLELY ON PRESUMPTIONS AS THE BASIS OF ITS DECISION.
- THE LOWER COURT GRAVELY ERRED IN RENDERING A DECISION WITHOUT HOLDING A TRIAL AND GIVING AN OPPORTUNITY TO APPELLANT TO PRESENT EVIDENCE.[27]

The Office of the Solicitor General alleged that the trial court acted arbitrarily when it rendered judgment based on the pleadings notwithstanding the following factual issues that were raised by the parties:

FACTUAL ISSUES

APPELLANT'S POSITION

APPELLEES' POSITION

1.

Service of copy of application and its annexes to the Director of Lands

No compliance

The Clerk of Court complied or is supposed to comply therewith

2.

Service of copy of application and its annexes to the Solicitor General

No compliance

The Clerk of Court complied or is supposed to comply therewith

3.

Submission of the survey plan to the Director of Lands for reverification and approval

No compliance

The survey plan has been duly processed and approved by the Land Registration Commission

4.

Submission of the report by the Director of Lands

No compliance

A Report has been made to the Director of Lands, Manila by the Regional Office of the Bureau of Lands in Cagayan de Oro[28]

The Office of the Solicitor General contends that the trial court should have conducted a full-blown trial instead of allowing the parties to forego with the same. The private respondents, for their part, admitted that the Land Registration Commission's survey plan had not been re-evaluated much less approved, by the Director of the Bureau of Lands. They averred, however, that the same was merely a procedural defect.[29]

On April 29, 1999, the CA rendered a decision affirming the ruling of the CFI holding that: (a) the petitioner failed to prove the material allegations of its complaint; and, (b) the personnel of the CFI and the Land Registration Commission are presumed to have performed their duties as the law mandated.[30] The CA denied the petitioner's motion for reconsideration of the said decision.

The petitioner filed its petition for review on certiorari praying that the court resolve the following issues:

- WHETHER OR NOT THE COURT OF APPEALS, IN AFFIRMING THE APPEALED JUDGMENT DATED JANUARY 31, 1995, COMMITTED GRAVE ERROR WHEN IT AFFIRMED THE JURISDICTION OF THE COURT OF FIRST INSTANCE OF MISAMIS ORIENTAL OVER THE SUBJECT MATTER AND THE PARTIES IN LAND REGISTRATION CASE NO. 531, COURT (SIC) ON THE BASIS OF THE DISPUTABLE PRESUMPTION OF REGULARITY OF PERFORMANCE OF OFFICIAL ACTS (SECTION 3[m], Rule 131 OF THE RULES OF COURT).

- WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ERROR WHEN IT AFFIRMED THE APPEALED JUDGMENT DATED JANUARY 31, 1995 NOTWITHSTANDING THAT IT WAS RENDERED WITHOUT A TRIAL.[31]

In their comment on the petition, the private respondents assert that the issues raised by the petitioner pertain merely to factual matters and not to questions of law. Furthermore, as shown by the records of Branch 1 of the CFI in LRC Case No. N-531, the petitioner received a copy of the application, the amended application, as well as the notice of the initial hearing of the case.

The threshold issues for resolution are as follows: (a) whether or not the Court may review the decision of the appellate court on the issues raised herein; (b) whether the RTC erred in rendering the decision without a full-blown trial, based solely on the pleadings of the parties and the documents appended to their memorandum; and (c) whether the decision of the trial court was made in accordance with law.

On the first issue, the rule is that only questions of law may be reviewed in this Court on a petition for review on certiorari under Rule 45 of the Rules of Court. However, it has also been held that the finding of facts of the appellate court may be questioned in this Court, where as in this case, the latter's judgment is based on a misapprehension of the facts, or such findings are contrary to the admissions of the parties, or when certain relevant facts are overlooked, which, if properly considered, would justify a different conclusion.[32]

In this case, the petitioner avers that the trial court erred when it rendered a decision without conducting a full-blown trial, and based its ruling merely on the pleadings of the parties and the documents appended to their respective memoranda. The petitioner asserts that under Rule 34 of the Rules of Court, the court may render judgment on the pleadings only when the respondents' answer fails to tender an issue or otherwise admits the material allegations of the adverse party's pleadings. Furthermore, it was not proper for the trial court to render summary judgment under Rule 35 of the Rules of Court, for the simple reason that the private respondents, in their answer, tendered genuine issues of fact which called for the presentation of evidence.

We do not agree with the petitioner. The trial court dispensed with a full-blown trial because, precisely, the parties themselves agreed thereto, on the claim that the issues raised may be resolved on the basis of the pleadings, the memoranda and the appended documents, without need of presenting witnesses thereon. A party may waive its right to present testimonial evidence and opt to adduce documentary evidence and thereafter, submit the case for resolution based solely on their pleadings and documentary evidence. In this case, no less than the petitioner, represented by the Office of the Solicitor General through Special Attorney Vicente Serina, agreed to dispense with a full-blown trial.

On the second issue, we agree with the petitioner that the trial court erred in rendering judgment in favor of the private respondents and that the CA committed a reversible error in affirming the same.

The CA ruled that the petitioner was burdened to prove that the issuance of OCT-0662 was marred by irregularities. It further held that a title issued under the torrens system of registration is presumed valid, and unless and until the petitioner adduced competent and strong evidence to prove otherwise, government officials such as the personnel of the CFI and the Land Registration Commission and the Director of the Bureau of Lands are presumed to have performed their duties in accordance with law. According to the CA, the petitioner failed to adduce such evidence. The appellate court took note that the private respondents even appended documentary evidence to their memorandum showing compliance with the statutory requirement.

For its part, the petitioner contends that as defendants in the trial court, it was the burden of the private respondents to prove the existence of a fact – that the land registration court had acquired jurisdiction over the subject matter of the petition and over the persons of the respondent therein; conversely, the private respondents, as applicants therein, were obliged to adduce in evidence the survey plan approved by the Director of the Bureau of Lands as required by P.D. Nos. 239 and 1529. According to the petitioner, there is no presumption in favor of the jurisdiction of a court of limited jurisdiction, such as a land registration court. It contends that where the jurisdiction of a court depends upon the existence of facts, it has no right or power to proceed or act upon a pleading which does not substantially set forth such facts.

We find for the petitioner. As applicants in LRC Case No. N-531, the private respondents had the burden of complying with the statutory requirement of serving the Director of the Bureau of Lands with a copy of their application and amended application, and to show proof of their compliance thereon. However, we also agree with the CA that it was the burden of the petitioner in the trial court to prove the material allegations of its complaint. This is provided in Section 1, Rule 131 of the Rules of Court which reads:

Burden of proof. – Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

Obviously, the burden of proof is, in the first instance, with the plaintiff who initiated the action. But in the final analysis, the party upon whom the ultimate burden lies is to be determined by the pleadings, not by who is the plaintiff or the defendant. The test for determining where the burden of proof lies is to ask which party to an action or suit will fail if he offers no evidence competent to show the facts averred as the basis for the relief he

seeks to obtain,[33] and based on the result of an inquiry, which party would be successful if he offers no evidence.[34]

In ordinary civil cases, the plaintiff has the burden of proving the material allegations of the complaint which are denied by the defendant, and the defendant has the burden of proving the material allegations in his case where he sets up a new matter. All facts in issue and relevant facts must, as a general rule, be proven by evidence except the following:

- (1) Allegations contained in the complaint or answer immaterial to the issues.
- (2) Facts which are admitted or which are not denied in the answer, provided they have been sufficiently alleged.
- (3) Those which are the subject of an agreed statement of facts between the parties; as well as those admitted by the party in the course of the proceedings in the same case.
- (4) Facts which are the subject of judicial notice.
- (5) Facts which are legally presumed.
- (6) Facts peculiarly within the knowledge of the opposite party.[35]

The effect of a presumption upon the burden of proof is to create the need of presenting evidence to overcome the prima facie case created thereby which if no proof to the contrary is offered will prevail; it does not shift the burden of proof.[36] In this case, the personnel of the Land Registration Commission and the CFI in LRC Case No. N-531 are presumed to have performed their duty of serving a copy of the application and its appendages to the petitioner. It was thus the burden of the petitioner to prove that: (a) it was not served with a copy of the application of the private respondents and its annexes; (b) the private respondents failed to append to their application the survey plan of Lot No. 2821, duly approved by the Director of the Bureau of Lands as required by P.D. Nos. 1529 and 239. Unless the same were admitted by the respondents, the petitioner should have adduced in evidence the relevant portions of the records of LRC Case No. N-531, including the decision of the trial court, to prove that the Director of the Bureau of Lands was not served with a copy of the application and the amended application.[37]

Section 13, Rule 13 of the Rules of Court provides as follows:

SEC. 13. Proof of service. – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with section 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

Such proof of service should be found in the records of the case in which the application/amended application was filed, in this case, LRC Case No. N-531. The same records will also show whether or not the private respondents appended the survey plan duly approved by the Director of the Bureau of Lands to their application, as mandated by P.D. Nos. 1529 and 239, and whether the private respondents adduced the said plan in evidence.

The petitioner should have moved for the issuance of a subpoena duces tecum for the Clerk of Court of Branch 1 of the RTC to bring to the court the records of LRC Case No. N-531 to prove the material allegations of its complaint. The petitioner did not.

The question that comes to fore then is whether or not the petitioner was burdened to prove its allegation that the Director of the Bureau of Lands had approved Plan (LRC) SWO-150. The answer to the question is dependent on the resolution of the issue of whether or not the private respondents admitted the same, impliedly or expressly, in their answer to the complaint and in their pleadings.

A careful perusal of the records reveals that in paragraph 8 of its complaint, the petitioner alleged that the survey plan, Plan (LRC) SWO-150 was not submitted to the Director of the Bureau of Lands for re-verification and approval as required by law, notwithstanding which the trial court rendered judgment in favor of the applicants. Hence, the petitioner concluded, the said plan is void:

- That the survey plan of the land applied for in said registration case, plan (LRC) SWO-150, is a plan processed and approved by the Land Registration Commission, but the same plan was not submitted to the Director of Lands for re-verification and approval as required by the provision of Section 2, Presidential Decree No. 239, series of 1973. Hence, the plan (LRC) Swo-150 submitted with the application should be considered as void and non-existing. Furthermore, on February 5, 1976, the said land registration court, after receiving the evidence of the applicants ex parte, rendered its decision in the land registration case without requiring the Director of Lands to submit his report as required by the provision of Section 3 of the same Presidential Decree No. 239;[38]

In paragraph 4 of their answer to the complaint, the private respondents denied the foregoing allegation in paragraph 8, but alleged as follows:

- That defendants DENY the allegations in paragraph 8 of the Complaint, the truth of the matter being that the survey plan has been duly processed and approved by the Land Registration Commission. As regards the Report required by the provisions of Section 3 of PD 239, the records show that a Report has been made to the Director of Lands, Manila, by the Regional Office of the Bureau of Lands in Cagayan de Oro City. Moreover, the deficiencies of the administrative officials of the government in following procedures or rules and implementing circulars relative to land registration cases, if any, is not a ground for voiding the title already issued since the defect, if any, is not jurisdictional but merely procedural in nature. Besides, the fault or omission, if any, is that of the Land Registration Commission and the Director of Lands and not that of the defendants;[39]

The private respondents failed to specifically deny the petitioner's averment in its complaint that LRC Plan SWO-150 had not been approved by the Director of the Bureau of Lands. The private respondents thereby impliedly admitted that the Director of the Bureau of Lands had not approved any survey plan as required by Sections 2 and 3 of P.D. No. 239.[40]

In light of the private respondents' admission, the petitioner was relieved of its burden of still proving that the Director of the Bureau of Lands had not approved any survey plan of Lot 2821 before the trial court rendered its decision.

We reject the contention of the private respondents that the reevaluation and approval of the Director of the Bureau of Lands of the survey plan are not mandatory requirements and that the lack thereof did not render Original Certificate of Title No. 0662 void. Case law has it that it is not the function of the Land Registration Commission to approve original plans.[41] The duty devolved upon the Director of the Bureau of Lands, as mandated by Section 17 of P.D. No. 1529. Applicants for land registration are required to append a survey plan to their application, duly approved by the Bureau of Lands, thus:

Sec. 17. What and where to file. – The application for land registration shall be filed with the Court of First Instance of the province or city where the land is situated. The applicant shall file together with the application all original muniments of titles or copies thereof and a survey plan approved by the Bureau of Lands.

The submission of the plan approved by the Director of the Bureau of Lands is a statutory requirement which is mandatory in nature. The plan approved by the Land Registration Commission is of no value.[42] It behooved the trial court not to take cognizance of any application for land registration in the absence of a survey plan duly approved by the Director of the Bureau of Lands appended thereto. The private respondents admitted that the Director of the Bureau of Lands had not approved any survey plan for Lot No. 2821. Consequently, the title issued by the Register of Deeds in favor of the private respondents is null and void. Such title cannot ripen into private ownership. As we held in a recent case:[43]

No plan or survey may be admitted in land registration proceedings until approved by the Director of Lands. The submission of the plan is a statutory requirement of mandatory character. Unless a plan and its technical description are duly approved by the Director of Lands, the same are of no value.

Thus, the allegation that the signature approval for the survey plan was nowhere to be found is an important jurisdictional fact that must be ventilated before the trial court. In *Republic vs. Intermediate Appellate Court*, this Court stated that “void ab initio land titles issued cannot ripen into private ownership.” Thus, as OCT No. 17 is void and Segundina traces her rights to OCT No. 17, her claim would have no basis as a spring cannot rise higher than its source.

We also reject the private respondents’ submission that they should not be faulted for the failure of the Director of the Bureau of Lands to act on and resolve the recommendation of its Regional Director. The private respondents were mandated to comply with the requirements of P.D. No. 1529 with fealty before they filed their application for judicial confirmation of imperfect title in the court a quo.

Parenthetically, the evidence of the petitioner shows that the private respondents failed to append a survey plan duly approved by the Director of the Bureau of Lands to their application.[44]

The records show that on October 3, 1977, or after the CFI had rendered judgment in LRC Case No. N-531, the Regional Director of the Bureau of Lands directed the District Land Officer to report if the applicants in LRC Case No. N-531 had already furnished a copy to his office and, if so, to explain why the same had not been forwarded to the Regional Office.[45] In fine, as of October 3, 1977, the copy of the application of the private respondents in LRC No. N-531 had not been forwarded to the Regional Office of the Bureau of Lands. Indeed, it appears, based on the evidence of the parties, that the trial court even ignored the Report of the Land Registration Commission dated July 15, 1975 in LRC Case No. N-531 requiring the Directors of the Bureau of Lands and Forestry to submit a status report of Lot No. 2821 before setting the case for hearing:

WHEREFORE, this matter is brought to the attention of this Honorable Court for its information and guidance in the disposition of the instant land registration case. Further, to avoid duplication in the issuance of titles covering the same parcel of land and the issuance of titles for lands within the forest zone which have not been released and classified as alienable, it is respectfully recommended that the Director of Lands and the Director of Forestry, respectively, be required to submit a report on the status of the land applied for, before the hearing of the case, to determine whether said land or any portion thereof is comprised in any patent or forest zone.[46]

In recapitulation, then, the CFI committed a reversible error in dismissing the petitioner’s complaint and in not rendering judgment in favor of the petitioner. In turn, the Court of Appeals erred in affirming the decision of the CFI.

IN LIGHT OF ALL THE FOREGOING, the Decision of the Court of Appeals affirming the Decision of the Court of First Instance in Civil Case No. 7514 is SET ASIDE AND REVERSED. The Decision of the Court of First Instance appealed from is also SET ASIDE AND REVERSED. The Court hereby nullifies Original Certificate of Title No. 6662 under the names of the private respondents and orders the reversion of the property

covered by the said title to the petitioner.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.
Puno, J., (Chairman), on leave.

[1] Penned by Associate Justice B.A. Adefuin-de la Cruz with Associate Justices Eugenio S. Labitoria (Acting Chairman) and Presbitero J. Velasco, Jr. concurring.

[2] Records, p. 449.

[3] Josefina B. Vda. de Neri, Spouses Graciano and Victoria Neri, Spouses Mario and Victoria Neri Fernandez, Spouses Albert and Ma. Teresa Neri Yrastorza, and Ramon Neri.

[4] Records, pp. 463-464.

[5] Id. at 465.

[6] Id. at 418.

[7] Id. at 419-420.

[8] Josefina B. Vda. de Neri, Spouses Graciano B. Neri, Jr. and Victoria Babiera, Spouses Victoria Neri and Mario Fernandez, Ramon Neri, Spouses Ma. Teresa Neri and Albert Yrastorza, and the Register of Deeds of Cagayan de Oro City.

[9] Cagayan De Oro City has a total land area of 48,885 hectares.

Respondents informed this Court that a portion (12 hectares) of the subject lot is subject of the expropriation case entitled The City of Cagayan de Oro v. Josefina Vda. de Neri, et al., Civil Case No. 8092, pending before the Regional Trial Court of Cagayan de Oro City, Branch 19. (Rollo, pp. 170-172.)

[10] Rollo, p. 96.

[11] Records, pp. 170-172.

[12] Id. at 378.

[13] Id. at 449.

[14] Id. at 450.

[15] Id. at 459-460.

[16] Id. at 461. (Emphasis supplied.)

[17] Id. at 463-466.

[18] Id. at 408.

[19] Id. at 409-416.

[20] Id. at 417.

[21] Id. at 418.

[22] Id. at 419.

[23] Id. at 420.

[24] Id. at 421-422.

[25] Id. at 424.

[26] Id. at 537-538.

[27] Rollo, p. 29.

[28] Id. at 78.

[29] Records, pp. 137-138.

[30] Rollo, pp. 24-36.

[31] Id. at 15.

[32] See *Tansipek v. Philippine Bank of Communications*, 372 SCRA 456 (2001).

[33] *Di Baco v. Bendetto*, 95 SE 601.

[34] Francisco, *The Revised Rules of Court in the Philippines*, Vol. VII, Part II, pp. 5-6.

[35] Francisco, *Revised Rules of Court*, Vol. VII, Part II, 1997 ed., pp. 8-9.

[36] Id. at 7.

[37] *Arcelona v. Court of Appeals*, 280 SCRA 20 (1997).

[38] Records, p. 8.

[39] Id. at 20. (Underscore supplied).

[40] Sec. 2. The Land Registration Commissioner shall within thirty (30) days from the date hereof turn over all survey returns submitted to his Office to the Bureau of Lands for verification and appropriate action in accordance with Section 1858 of the Revised Administrative Code and the rules and regulations promulgated hereunder; and furnish the latter Office with copies of all plans that it had already approved as of the date of issuance of this Decree for re-verification and appropriate action in accordance with law and regulations.

Sec. 3. If the land covered by any survey approved by the Land Registration Commission has already been brought to court for registration purposes under Act 496 or under Section 48 of Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act, no decision shall be rendered thereon until the Director of Lands shall have submitted his report and recommendation thereon.

[41] *Director of Lands v. Judge Reyes*, 68 SCRA 177 (1975).

[42] Ibid.

[43] *University of the Philippines v. Rosario*, 355 SCRA 591 (2001).

[44] Exhibit "D."

[45] Exhibit "C."

[46] Records, pp. 461-462.

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