

HEIRS OF CERILA GAMOS AND RICARDO GALAG, NAMELY, FELICITAS G. GARCERA, ENCARNACION G. FORTE, NARCISA G. GALAN; AND DOMINGO, EDILBERTO, ROBERTO, HELEN, VIRGILIO, RICARDO, CONSTAN...

G.R. No. 149117. December 16, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A sales patent applicant who has complied with all the legal requirements is entitled to a grant of the disposable land of the public domain applied for. The execution and formal delivery of the patent becomes merely ministerial. Under these circumstances, the property applied for is, for all purposes, considered segregated from the public domain. Hence, the subsequent issuance to a third person of a free patent covering the same property is null and void. The government can no longer convey the ownership of a parcel of land it no longer owns.

The Case

Before the Court is a Petition for Review[1] under Rule 45, seeking to nullify the August 23, 2000 Decision[2] and the July 12, 2001 Resolution[3] of the Court of Appeals (CA) in GR CV No. 61230. The decretal portion of the assailed Decision reads:

“WHEREFORE, upon the premises, the appealed decision is AFFIRMED in toto.”[4]

The challenged Resolution denied petitioners’ Motion for Reconsideration.

The Facts

The subject of the present controversy is a parcel of agricultural land located in Sta. Magdalena, Sorsogon, particularly described as follows:

“Location: Poblacion, Sta. Magdalena, Sorsogon

“Area: 2.4969 hectares

“Boundaries: N-R. Frando & P. Frilles

E-I. Gallanosa & P. Frilles

S-I. Gallanosa & P. Frilles

W. Marcela de Galag”[5]

Juliana Frando, respondents’ predecessor-in-interest, was in possession of the above-described property. Since 1925, she had planted several trees and other plants thereon, including coconuts, pili, bananas and cacao.[6]

Sometime in 1946, the property was traversed by a national road that effectively divided it into two portions, denominated as Lot Nos. 7 and 1855, respectively.[7] The latter, Lot No. 1855, is the subject of the present controversy.

Evident from certified copies of existing records of the Bureau of Lands introduced in evidence is the fact that on February 14, 1952, Frando filed Insular Government Property Sales (IGPS) Application No. 162 for the parcel in question. Pursuant thereto, a representative of the Bureau of Lands inspected the area and found it to be inside an agricultural zone, free from private claims and conflicts.

After the secretary of agriculture appraised the property at P240, a notice calling for bids was published. At the auction sale conducted on April 22, 1955, the only bidder was Frando. On even date she deposited P24, which represented 10 percent of the appraised value, as evidenced by Official Receipt (OR) No. 9654851 dated April 22, 1955.

Full payment of the purchase price was effected approximately a year later, on April 6, 1956, when Frando paid the balance of P216 as evidenced by OR No. A-2675530. On the same day, an Order/Award was made in her favor by Director of Lands Zoilo Castrillo.[8] Apparent from a survey plan executed pursuant to an Order of the Bureau was the fact that the property awarded to her covered both Lots 7 and 1855 with an aggregate area of 4.000 hectares.

One of her two children, Salvacion Gallanosa who was married to Abdon Gimpes, continued possession of the property. Sometime in 1940, the couple constructed their house on the southwestern portion thereof.

The other child of Frando, Paciencia Gallanosa-Fuellas, chose to settle in Manila. The Gimpes spouses helped her in the administration of the land. Their children -- particularly Respondents Rodolfo, Neri, Juan and Antonio -- were born on the property, where they also grew up. After their parent's death, they continued possession of the land; and harvested and received the fruits of the improvements for themselves and on behalf of their grandmother, Juliana Frando, even after her death in 1971.[9]

Purportedly unknown to private respondents, a cadastral survey of the Municipality of Sta. Magdalena, Sorsogon, was conducted in 1958. According to the Bureau of Lands, during the said survey, Lot No. 1855 became the subject of Case No. P1s-611-D, Sta. Magdalena Public Land Subdivision; as a result, Free Patent No. 459501[10] dated July 24, 1969 was awarded to Defendant Cerila Gamos on October 27, 1969. Allegedly, the free patent became the basis for the issuance of OCT No. P-10548 in her name. Private respondents claimed to be unaware of these developments, as neither she nor her heirs had taken possession of the disputed portion until 1981. In that year, Ambrocio Guatno and the other petitioners, who had joined him later, entered the property, gathered its produce and built their houses thereon.

On August 3, 1988, the heirs of Juliana Frando filed with the Regional Trial Court (RTC) a Complaint against Cerila Gamos and the director of the Bureau of Lands. The complainants challenged the validity of Free Patent No. 459501 and OCT No. P-10548. As the plaintiffs therein, they alleged that the Bureau of Lands had no authority to award the patent covering an area it had earlier awarded to Frando. They further alleged that fraud had attended the issuance of the subject OCT when Miguel Fungo, an employee of the Office of the Provincial Assessor of Sorsogon, purportedly forged the signature of Cerila Gamos in all the documents. Those documents were used in the transfer of the Tax Declaration to her name, as well as in the application for the issuance of Free Patent No. 459501 and OCT No. P-10548.

In their Answer, Cerila Gamos and her co-defendants alleged that they had been in actual and open possession of the land as early as 1952; and that the Bureau of Lands' October 27, 1969 issuance in their favor of a free patent

title, which subsequently became the basis of OCT No. P-10548, was valid and lawful. They pointed out that respondents' suit to contest a title nineteen years after its issuance was already barred by prescription.

In its Answer, the Bureau of Lands, represented by the Office of the Solicitor General (OSG), admitted that Juliana Frando had filed an IGPS application for a parcel of land with an area of 2.4969 hectares located at Poblacion, Sta. Magdalena, Sorsogon, Sorsogon. Admittedly, she won the public bidding and deposited the amount of P24 under OR No. 9654851 dated April 22, 1955, but allegedly failed to pay the balance price of P216. Thus, concluded the Bureau, while the land had previously been awarded to her, the Complaint was rendered dismissible for lack of merit, as a consequence of her failure to pay the balance price to assert her right to perfect her title thereto, and to controvert the subsequent cadastral survey covering a portion thereof. In its Answer, however, the Bureau made no mention of OCT No. P-10548.

On July 7, 1998, the Sorsogon RTC rendered the following judgment in favor of respondents (the plaintiffs therein):

“WHEREFORE, the court renders judgment:

- Finding the defendant Cerila Gamos of having fraudulently secured a free patent title to that portion of the property in question described in paragraph 3 of the complaint and indicated in Exhibit “X-1” as that portion shaded by red lines;
- Ordering the defendant Cerila Gamos or her successors-in-interest to execute a deed of reconveyance of that portion of Lot No. 1855 under Original Certificate of Title No. 10548 as delineated and described in Exhibit “X-1”, shaded by red lines;
- Ordering the defendants to surrender the possession of the same to the plaintiffs and to remove whatever improvements said defendants had introduced on said property;
- Ordering the defendants to pay the plaintiffs the amount of P15,000.00 x x x as damages representing attorneys' fees and necessary litigation expenses, jointly and severally and;
- To pay the costs.”

Aggrieved, petitioners appealed to the Court of Appeals.

Ruling of the Court of Appeals

Affirming the RTC, the appellate court noted that the trial court's Decision was fully supported by the evidence on record. The CA dismissed petitioners' submission that, on the basis of the Report of the Bureau of Lands, the claim of Juliana Frando had yet to be perfected, because she had paid only 10 percent of the total value of the land covered by her application. The appellate court pointed out that the foregoing argument was belied by the Bureau's Order/Award to her in 1956.

Further, the CA upheld the lower court's award of attorney's fees, because the appellees had been compelled “to litigate or incur expenses to protect their interest by reason of the unjustified act of the [appellants].” [11]

Hence, this Petition.[12]Issues

In their Memorandum, petitioners raise the following issues for our consideration:

I

“Whether or not the order award given to Juliana Frando has been perfected

II

“Whether or not Cerila Gamos’ free patent was secured through fraud

III

“Whether or not action of the heirs of Juliana Frando has already been barred by laches/prescription”[13]

The Court’s Ruling

The Petition has no merit. However, the challenged judgment should be partly modified.

First Issue:

Perfection of Sales Patent

The Philippine Constitution provides that “all lands of the public domain x x x are owned by the State.”[14] They “are classified into agricultural, forest or timber, mineral lands and national parks. x x x. Alienable lands of the public domain shall be limited to agricultural lands.”[15]

The origin of the foregoing provisions can be traced to the Roman law concept of dominium, the power of the State to own or acquire property. Under this concept, which became the basis for the regalian theory predominant during the Spanish times, all lands belonged to the Spanish Crown.[16] In our present republican form of government, the concept remains, albeit stripped of its colonial overtones. Now, ownership of all lands of the public domain is vested in the State.[17]

As in ordinary ownership, dominium embraces the capacity to alienate the property owned. The constitutional limitation on the State’s power to alienate agricultural lands of the public domain is intended to prevent monopoly and foreign control of our natural resources, as well as to enable the government to control the exploitation, development and utilization thereof for the benefit of all.

Private persons gain title to agricultural lands of the public domain by virtue of a public grant,[18] adverse possession (or prescription), accretion and -- in certain cases --reclamation. One who seeks to register one’s title has the burden of proving that it has been acquired through any of the foregoing modes, by virtue of which the land has effectively been segregated from the public domain.

A perusal of the Complaint filed by private respondents before the trial court shows that their asserted claim over the disputed portion ostensibly rested on the Order/Award issued to their predecessor-in-interest, Juliana Frando, in 1956. The issue is now narrowed down to whether this piece of evidence sufficiently vested private respondents with an uncontroverted and indefeasible title over the disputed property.

Acquisition of Public Land

Through a Sales Patent

Disposal of public agricultural land through a sales patent, as in the instant case, is governed by Commonwealth Act No. 141, the Public Land Act. Under this law, a sales patent may be granted to a Filipino citizen who may or may not be of lawful age, provided that one who is below the age of majority is the head of a family. The law provides that after winning the bid and paying the purchase price, the applicant must comply with the necessary requirements -- specifically the cultivation, occupation and introduction of improvements over at least one fifth of the land applied for.

After the applicant meets the legal requirements, the director of lands then orders the survey of the land and the issuance of the sales patent in the applicant’s favor. Section 107 of Commonwealth Act 141 further requires the registration of the patent under the Land Registration Act by furnishing the registrar of deeds a certified copy

thereof, after which the corresponding certificate of title would accordingly be issued to the patentee.

In the present case, the Bureau of Lands did not issue the patent to Frando, because she had allegedly failed to pay the P216 balance of the sale price. The Bureau's assertion is, however, soundly disproved by evidence. Clearly appearing on the Order/Award[19] issued to Frando in 1956 is the following proviso:

"That at the auction sale of the land held on April 22, 1955, the only bid received was that of the applicant who offered P240.00 for the whole tract and deposited the amount of P24.00 under O.R. No. 9654851 dated April 22, 1955 which is equivalent to 10% of the bid. Subsequently, the applicant again paid the amount of P216.00 under O.R. No. A-2675530 dated April 6, 1956 to complete the full purchase price of the land." (Emphasis supplied)

Given the full payment of the purchase price as well as the compliance with all the requirements for the grant of a sales patent, the Bureau had no reason to deny the issuance of such patent to Frando. Her compliance with all the requirements effectively vested in her and her successors-in-interest an equitable title to the property applied for. Applicable to the instant case is our time-honored pronouncement in *Balboa v. Farrales*, which we quote:

"A party who has complied with all the terms and conditions which entitle him to a patent for a particular tract of public land, acquires a vested interest therein, and is to be regarded as the equitable owner thereof.

"Where the right to a patent has once become vested in a purchaser of public lands, it is equivalent, so far as the Government is concerned, to a patent actually issued. The execution and delivery of the patent after the right to it has become complete are the mere ministerial acts of the officers charged with that duty. x x x. Even without a patent, a perfected homestead is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is still in the Government. Such land may be conveyed or inherited." [20] (Emphasis supplied)

Thus, when the cadastral survey was subsequently conducted in Sta. Magdalena in 1958, the disputed property -- already held in private ownership -- was no longer part of the public domain. The director of lands had no more authority to grant to a third person a patent covering the same tract that had already passed to private ownership.[21] Thus, the issuance of the free patent to Cerila Gamos, insofar as it encroached the portion already granted to Frando, had no legal basis at all.

Open, Continuous, Exclusive and
Notorious Possession and Occupation
of Alienable and Disposable Lands

The denial of the sales patent notwithstanding, Juliana Frando is deemed to have acquired equitable title to the property, because private respondents adequately proved during trial her open, continuous, exclusive and notorious possession and occupation of alienable and disposable land of the public domain.

Introduced in evidence was a Declaration of Real Property covering the same tract of land. The Declaration had been issued to Basilio Frando, father of Juliana Frando, sometime in 1906.[22] Witness accounts[23] of long time residents of the adjoining properties confirmed her possession for a period not later than 1925; and her introduction thereon of various trees and other plants, including bananas, cacao, pili and coconuts.

They also attested to the continued possession of the property by Frando's daughter, Salvacion Gimpes; and subsequently by her children, herein private respondents. Aside from showing the Order/Award, the children bolstered their claim by introducing in evidence several Tax Declarations, sketch plans, survey returns and the reports of the court-appointed commissioner.

While asserting possession of the property as early as 1952, petitioners have not presented any document or

witness to prove their bare claim. Moreover, Ambrosio Guatno -- one of herein petitioners -- testified that he had entered the property upon the permission of Ricardo Galag, an heir of Gamos; later, he admitted that its true owner was Juliana Frando.[24]

In line with *Susi v. Razon*,^[25] possession of a parcel of agricultural land of the public domain for the prescribed period of 30 years ipso jure converts the lot into private property.^[26] In that case, the application of Valentin Susi for a free patent was denied by the Bureau of Lands, despite the fact that he had been in possession of the property for a far longer period than the grantee. Still true to this day is this Court's ruling on the matter, which we quote:

"It clearly appears from the evidence that Valentin Susi has been in possession of the land in question openly, continuously, adversely and publicly, personally and through his predecessors, since the year 1880, that is, for about forty-five years. x x x. When on August 15, 1914, Angela Razon applied for the purchase of the land, Valentin Susi had already been in possession thereof personally and through his predecessors for thirty four years. x x x In favor of Valentin Susi, there is, moreover, the presumption juris et de jure x x x that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession personally and through his predecessors, of an agricultural land of the public domain openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act. So that when Angela Razon applied for a grant in her favor, Valentin Susi had already acquired, by operation of law, not only a right to a grant, but a grant of the government, for it is not necessary that a certificate of title should be issued in order that a grant may be sanctioned by the courts, an application therefore is sufficient, under the provision of Section 47 of Act No. 2874. If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain and had become the private property, at least by presumption of Valentin Susi, beyond the control of the Director of Lands. Consequently, in selling the land in question to Angela Razon, the Director of Lands disposed of a land over which he no longer had title or control, and the sale thus made was void and of no effect and Angela Razon did not thereby acquire any right." (Emphasis supplied)

Clearly, the mere application for a patent, coupled with the fact of exclusive, open, continuous and notorious possession for the required period is sufficient to vest in the applicant the grant applied for. In sum, the application by Juliana Frando for a sales patent, coupled with her open, exclusive, uninterrupted and notorious possession of the land applied for is, for all purposes, equivalent to a patent already perfected and granted.

The subsequent entry of petitioners and their occupation of the property in question was in bad faith,^[27] given the prior possession thereof by private respondents. Thus, when the former were ordered by the RTC to remove whatever improvements they might have introduced thereon, the court committed no error.^[28]

Evidentiary Matters and the Attempt to Deceive this Court

The Complaint before the Sorsogon RTC prayed mainly for the cancellation of OCT No. P-10548, which had allegedly been issued to Cerila Gamos by the Register of Deeds of Sorsogon on October 27, 1969. An examination of the records shows that no copy of the said OCT was ever presented in evidence at any stage of the proceedings. The complainants (herein respondents) failed to present the document that was central to their action. That omission was in no way alleviated by the ominous failure of the defendants themselves (herein petitioners) to present the very evidence upon which they had based their claim of superior title. In fact, the latter never presented any documentary evidence at all and merely adopted that of the former.

Inasmuch as neither party had presented the subject OCT in evidence and, hence, the Sorsogon RTC never had the opportunity to examine it, there was no basis for trial court's Decision (as affirmed by the appellate court) -- more particularly, the part ordering petitioners to "execute a deed of reconveyance of that portion of Lot No. 1855

under Original Certificate of Title No. 10548.”

As worded, the RTC’s ruling may lead to mischievous consequences. For all we know, OCT No. 10548 may be in the name of a third person who is not a party to the present proceedings, or it may cover a property different from that in dispute. On these grounds, the foregoing portion of the trial court’s Decision should be modified. The metes and bounds of the property in dispute -- the title to and possession of which is confirmed to belong properly to private respondents -- should in no way be defined by any reference to OCT No. 10548. Rather, such definition should be based on the documentary evidence at hand; more particularly, the technical description in the survey plan made --pursuant to Frando’s application for a sales patent -- as confirmed by the survey later conducted by the court-appointed commissioner.

By subsequently attaching Free Patent No. 459501 (which was in the name of Gamos) as Annex “J” to their Petition, petitioners are resorting to a belated remedy to a fatal omission. They should have offered the document before the trial court, not -- as they have done -- in the last stretch of the proceedings, when such document can no longer be considered. Time and time again, we have pronounced that this Court is not a trier of facts.

Assuming arguendo that the patent is still admissible, it is nonetheless bereft of any evidentiary value. While it refers to Lot No. 1855, it is -- unlike the Order/Award issued to Frando -- accompanied neither by a survey sketch duly approved by the Bureau of Lands, nor by a technical description that would enable us to determine whether the patent refers to the property in dispute. We also note that the said document was admittedly issued to Gamos on October 27, 1969, a mere seventeen years after she had allegedly entered into possession of the property -- in 1952, according to herein petitioners. Clearly then, Free Patent No. 459501 was issued despite the applicant’s possession of the property for a period shorter than the 30 years required by law.[29]

Further compounding the procedural lapse committed by petitioners is their apparent attempt to mislead this Court. Likewise attached to the Petition is a copy of an alleged Deed of Sale executed between one Felipa Bongais and Cerila Gamos, as well as several copies of Tax Declarations apparently showing that the Deed covers the contested property.

A perusal of the said documents shows that they involve a rice land situated in Adgao, Poblacion, Sta. Magdalena, with an area of 11,300 square meters; not the property subject of the present controversy, which covers 2.4969 to 4.0000 hectares. By introducing the alleged Deed of Sale, petitioners obviously want to bolster their claim of ownership by impressing upon this Court that they have purchased the property from Bongais. They are, however, thereby contradicting their prior assertion of title on the basis of a free patent. These contradictory assertions not only cast serious doubt on the veracity of their claim; they also constitute an apparent attempt to mislead the Court.

Second Issue:

Fraud

Petitioners argue that the trial court erred in holding that the free patent issued to Cerila Gamos had fraudulently been secured. Both parties failed, though, to present a copy of Free Patent No. 459501. This lapse resulted in the trial court’s failure to examine the document and to appreciate the circumstances under which it had allegedly been issued. Thus, any determination of whether fraud indeed attended its issuance is not possible now.

Third Issue:

Prescription and Laches

In their last assignment of error, petitioners argue that private respondents’ action to annul the free patent issued

to Cerila Gamos has already prescribed and is barred by laches. We do not agree.

As testified to by the Gilda Bongais -- one of Juliana Frando's heirs -- when petitioners first invaded the property in 1979 by constructing a house thereon, her aunt (Paciencia Gallenosa) filed an action contesting such intrusion. The action was later dropped due to the financial burdens of the litigation, definitely not because of any concession of rights by private respondents. Thus, the legal inaction on their part was due, not to their lack of vigilance, but merely to their lack of resources to defend their property.

On the witness stand, Guatno himself recognized Juliana Frando and her heirs as the true owners of the property, even as he admitted that it was Galag -- one of herein petitioners -- who had given him permission to erect a house on the land in 1980. Petitioners' possession of the disputed property, based as it was on mere tolerance, could neither ripen into ownership nor operate to bar any action by private respondents to recover absolute possession thereof.[30]

WHEREFORE, the Petition is DENIED. However, paragraph (b) of the RTC decision is MODIFIED to read as follows:

b. Ordering the successors-in-interest of Cerila Gamos to execute a deed of reconveyance of that portion of Lot No. 1855 with an area of 1,626 square meters as delineated and described in Exhibit "X-1", shaded by red lines.

Counsels for petitioners -- Attys. Arceli A. Rubin, Amelia C. Garchitorena, Marvin R. Osias and Beatriz Teves de Guzman -- are hereby ordered to SHOW CAUSE, within ten days from receipt hereof, why they should not be subjected to administrative sanction for their attempt to deceive this Court through the introduction of misleading evidence.

Costs against petitioners.

SO ORDERED.

Sandoval-Gutierrez, Carpio-Morales, and Garcia, JJ., concur.
Corona, J., on leave.

[1] Rollo, pp. 9-28.

[2] Id., pp. 72-82. Sixth Division. Penned by Justice Portia Aliño-Hormachuelos and concurred in by Justices Ma. Alicia Austria-Martinez (Division chair, now a member of this court) and Elvi John S. Asuncion.

[3] Id., pp. 99-100.

[4] Assailed Decision, p. 11; rollo, p. 82.

[5] Assailed Decision, p. 3; rollo, p. 74.

[6] Ibid.

[7] Ibid.

[8] Id., pp. 4 & 75.

[9] Id., pp. 5 & 76.

[10] In some parts of the record stated as "45901."

[11] Assailed Decision, p. 11; rollo, p. 82. Citations omitted.

[12] This case was deemed submitted for decision on August 1, 2003, upon receipt by this Court of respondents' Memorandum, signed by Atty. Mariano B. Baranda Jr. Petitioners' Memorandum -- signed by Attys. Amelia C. Garchitorena, Marvin R. Osias and Beatriz Teves-de Guzman of the Public Attorneys' Office -- was received by the Court on August 2, 2002.

[13] Petitioners' Memorandum, pp. 8-9; rollo, pp. 134-135. Original in upper case.

[14] Section 2 of Article XII of the 1987 Constitution.

[15] Section 3, *id.*

[16] Bernas, "The Constitution of the Republic of the Philippines: A Commentary" (1988) Vol. II, p. 419.

[17] *Ibid.*

[18] A public grant may be in the form of homestead settlement, sale, lease, and confirmation of imperfect or incomplete title and free title.

[19] Exhibit "A," records, p. 146.

[20] 51 Phil. 498, February 14, 1928, per Johnson, J.

[21] *De la Concha et al v. Magtira*, 124 Phil. October 19, 1966; *De los Reyes v. Razon*, 38 Phil. 480, August 20, 1918.

[22] Exhibit "E" for Complainants.

[23] See TSN, Vivencio Gatón, January 30, 1995, pp. 2-12; and Carina Daymon, January 30, 1995, pp. 12-19.

[24] TSN, Ambrocio Galag, cross-examination, May 13, 1996, pp. 2-5.

[25] 48 Phil. 424, December 9, 1925.

[26] *Pineda v. CA*, 183 SCRA 602, March 23, 1990.

[27] *Salacup v. Rambac*, 17 Phil. 21, September 9, 1910.

[28] Article 549 of the Civil Code provides that "the possessor in bad faith shall reimburse the fruits received and those which the legitimate possessor could have received, and shall have a right only to the expenses mentioned in par. 1 of Article 546 and in article 443. The expenses incurred in improvements for pure luxury or mere pleasure shall not be refunded to the possessor in bad faith; but he may remove the objects for which such expenses have been incurred, provided that the thing suffers no injury thereby, and that the lawful possessor does not prefer to retain them by paying the value they may have at the time he enters into possession."

[29] See §44, CA 144.

[30] Article 357 of the Civil Code provides that "Acts merely tolerated, and those executed clandestinely and without the knowledge of the possessor of a thing, or by violence, do not affect possession."

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