

**ROGELIO, GEORGE, LOLITA, ROSALINDA, AND JOSEPHINE, ALL
SURNAMED PASIÑO, REPRESENTED BY THEIR FATHER AND
ATTORNEY-IN-FACT JOSE PASIÑO PETITIONERS, VS. DR. TEOFILO
EDUARDO F. MONT...**

G.R. No. 159494. July 31, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 31 January 2003 Decision[2] and the 5 August 2003 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 63199. The Court of Appeals affirmed the Decision[4] dated 2 February 1999 of the Regional Trial Court of Iligan City, Branch 6 (trial court), in Civil Case No. 06-3060.

The Antecedent Facts

This case originated from an action for recovery of possession and damages, with prayer for the issuance of a temporary restraining order or writ of preliminary mandatory injunction, filed by Rogelio, George, Lolita, Rosalinda and Josephine, all surnamed Pasiño, represented by their father and attorney-in-fact Jose Pasiño (petitioners) against Dr. Teofilo Eduardo F. Monterroyo (Dr. Monterroyo), later substituted by his heirs Romualdo, Maria Teresa and Stephen, all surnamed Monterroyo (respondents).

Cad. Lot No. 2139 of Cad. 292, Iligan Cadastre (Lot No. 2139), with an area of 19,979 square meters, located at Panul-iran, Abuno, Iligan City, was part of a 24-hectare land occupied, cultivated and cleared by Laureano Pasiño (Laureano) in 1933. The 24-hectare land formed part of the public domain which was later declared alienable and disposable. On 18 February 1935, Laureano filed a homestead application over the entire 24-hectare land under Homestead Application No. 205845.[5] On 22 April 1940, the Bureau of Forestry wrote Laureano and informed him that the tract of land covered by his application was not needed for forest purposes.[6] On 11 September 1941, the Director of Lands issued an Order[7] approving Laureano's homestead application and stating that Homestead Entry No. 154651 was recorded in his name for the land applied for by him.

Laureano died on 24 March 1950. On 15 April 1952, the Director of Lands issued an Order[8] for the issuance of a homestead patent in favor of Laureano, married to Graciana Herbito[9] (Graciana). Laureano's heirs did not receive the order and consequently, the land was not registered under Laureano's name or under that of his heirs. In 1953, the property was covered by Tax Declaration No. 11102[10] in the name of Laureano with Graciana[11] as administrator.

Between 1949 and 1954, a Cadastral Survey was conducted in Iligan City. The surveyor found that a small creek divided the 24-hectare parcel of land into two portions, identified as Lot No. 2138 and Lot No. 2139.

Petitioners claimed that Laureano's heirs, headed by his son Jose, continuously possessed and cultivated both lots.

On 16 October 1962, Jose's co-heirs executed a Deed of Quitclaim renouncing their rights and interest over the land in favor of Jose. Jose secured a title in his name for Lot No. 2138. Later, Jose alienated Lot No. 2139 in favor of his children (petitioners in this case) who, on 8 January 1994, simultaneously filed applications for grant of Free Patent Titles over their respective shares of Lot No. 2139 before the Land Management Bureau of the Department of Environment and Natural Resources (DENR). On 22 August 1994, the DENR granted petitioners' applications and issued Original Certificate of Title (OCT) No. P-1322 (a.f.) in favor of Rogelio Pasiño, OCT No. P-1318 (a.f.) in favor of George Pasiño, OCT No. P-1317 (a.f.) in favor of Lolita Pasiño, OCT No. P-1321 (a.f.) in favor of Josephine Pasiño, and OCT No. P-1319 (a.f.) in favor of Rosalinda Pasiño. Petitioners alleged that their possession of Lot No. 2139 was interrupted on 3 January 1993 when respondents forcibly took possession of the property.

Respondents alleged that they had been in open, continuous, exclusive and notorious possession of Lot No. 2139, by themselves and through their predecessors-in-interest, since 10 July 1949. They alleged that on 10 July 1949, Rufo Larumbe (Larumbe) sold Lot No. 2139 to Petra Teves (Petra). On 27 February 1984, Petra executed a deed of sale over Lot No. 2139 in favor of Vicente Teves (Vicente). On 20 February 1985, Vicente executed a pacto de retro sale over the land in favor of Arturo Teves (Arturo). In 1992, Arturo sold Lot No. 2139 in favor of respondents' father, Dr. Monterroyo, by virtue of an oral contract. On 5 January 1995, Arturo executed a Deed of Confirmation of Absolute Sale of Unregistered Land in favor of Dr. Monterroyo's heirs.

Respondents alleged that Jose was not the owner of Lot No. 2139 and as such, he could not sell the land to his children. They alleged that petitioners' OCTs were null and void for having been procured in violation of the Public Land Act. They further alleged that the Land Management Bureau had no authority to issue the free patent titles because Lot No. 2139 was a private land.

The Ruling of the Trial Court

In its 2 February 1999 Decision, the trial court ruled, as follows:

WHEREFORE, judgment is rendered in favor of all the defendants and against the plaintiffs:

- Dismissing the complaint;
- Declaring Lot No. 2139, Iligan Cadastre 292, located at Panul-iran, Abuno, Iligan City to have acquired the character of a private land over which the Land Management Bureau has been divested of jurisdiction;
- Declaring the defendants to be the owners and possessors of the said lot;
- Declaring OCT Nos. P-1322 (a.f.) of Rogelio Pasiño, P-1318 (a.f.) of George Pasiño, P-1317 (a.f.) of Lolita Pasiño, P-1321 (a.f.) of Josephine Pasiño and P-1319 (a.f.) of Rosalinda Pasiño to be null and void for having been procured by fraud and for having been issued by the Land Management Bureau which has been divested of jurisdiction over said lot;
- Declaring the defendants to be entitled to the sum of P6,000.00 deposited with the Office of the Clerk of Court under O.R. No. 1487777;
- Dismissing the defendants' counterclaim for attorney's fees.

Costs against the plaintiffs.

SO ORDERED.[12]

The trial court ruled that as of January 1994, Lot No. 2139 had already acquired the character of a private land by operation of law. Since Lot No. 2139 had already ceased to be a public land, the Land Management Bureau had no power or authority to dispose of it by issuing free patent titles.

The trial court ruled that respondents' counterclaim stands on the same footing as an independent action. Thus, it could not be considered a collateral attack on petitioners' titles. The trial court further ruled that respondents filed their counterclaim within one year from the grant of petitioners' titles, which was the reglementary period for impugning a title.

The trial court ruled that the order for the issuance of a patent in favor of Laureano lapsed and became *functus officio* when it was not registered with the Director of Deeds. The trial court ruled that while Laureano was the original claimant of the entire 24 hectares, he ceded the right to possession over half of the property, denominated as Lot No. 2139, to Larumbe sometime in 1947. The trial court found that Laureano offered to sell half of the land to his tenant Gavino Quinaquin (Gavino) but he did not have money. Later, Gavino learned from Larumbe that he (Larumbe) acquired half of the land from Laureano. Gavino then started delivering the owner's share of the harvest to Larumbe. Laureano never contested Gavino's action nor did he demand that Gavino deliver to him the owner's share of the harvest and not to Larumbe. When Lot No. 2139 was sold, Gavino and his successors delivered the owner's share of the harvest to Petra, Vicente, Arturo, Dr. Monterroyo, and Dindo Monterroyo, successively. The trial court also found that the other tenants had never given any share of the harvest to Jose. The trial court ruled that petitioners had failed to present convincing evidence that they and their predecessors-in-interest were in possession of Lot No. 2139 from 1947 to 1994 when they filed their application for free patent. The trial court ruled that petitioners committed actual fraud when they misrepresented in their free patent applications that they were in possession of the property continuously and publicly.

Petitioners appealed from the trial court's Decision.

The Ruling of the Court of Appeals

In its 31 January 2003 Decision, the Court of Appeals affirmed the trial court's Decision.

The Court of Appeals ruled that the trial court did not err in allowing respondents' counterclaim despite the non-appearance of Dr. Monterroyo, the original defendant, at the barangay conciliation proceedings. The Court of Appeals ruled that petitioners themselves did not personally appear. They were represented by their attorney-in-fact although they were all of legal age, which was a violation of the Katarungang Pambarangay proceedings requiring the personal appearance of the parties. Hence, the Court of Appeals ruled that there was never a valid conciliation proceeding. However, while this would have been a ground for the dismissal of the complaint, the issue was deemed waived because respondents did not raise it in their answer before the trial court.

The Court of Appeals ruled that the validity of petitioners' titles could be attacked in a counterclaim. The Court of Appeals ruled that respondents' counterclaim was a compulsory counterclaim.

The Court of Appeals sustained the trial court's ruling that the Land Management Bureau had been divested of jurisdiction to grant the patent because the land already acquired the character of a private land. While the homestead patent was issued in favor of Laureano, the issuance of patent order became *functus officio* when it was not registered. The Court of Appeals further sustained the trial court's finding that respondents were in physical, open, public, adverse and continuous possession of Lot No. 2139 in the concept of owner for at least 30 years prior to petitioners' application for free patent titles over the land.

Petitioners filed a motion for reconsideration.

In its 5 August 2003 Resolution, the Court of Appeals denied petitioners' motion for reconsideration.

Hence, the petition before this Court.

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The Issue

Petitioners raised the sole issue of whether the Court of Appeals erred in sustaining the trial court's Decision declaring respondents as the rightful owners and possessors of Lot No. 2139.[13]

The Ruling of this Court

The petition has no merit.

Land Management Bureau Had No Jurisdiction

To Issue Free Patent Titles

In *Director of Lands v. IAC*, [14] the Court ruled:

[A]lienable public land held by a possessor, continuously or through his predecessors-in-interest, openly, continuously and exclusively for the prescribed statutory period (30 years under The Public Land Act, as amended) is converted to private property by the mere lapse or completion of the period, ipso jure.[15]

In *Magistrado v. Esplana*, [16] the Court ruled that so long as there is a clear showing of open, continuous, exclusive and notorious possession, and hence, a registrable possession, by present or previous occupants, by any proof that would be competent and admissible, the property must be considered to be private.

In this case, the trial court found that the preponderance of evidence favors respondents as the possessors of Lot No. 2139 for over 30 years, by themselves and through their predecessors-in-interest. The question of who between petitioners and respondents had prior possession of the property is a factual question whose resolution is the function of the lower courts.[17] When the factual findings of both the trial court and the Court of Appeals are supported by substantial evidence, they are conclusive and binding on the parties and are not reviewable by this Court.[18] While the rule is subject to exceptions, no exception exists in this case.

Respondents were able to present the original Deed of Absolute Sale, dated 10 July 1949, executed by Larumbe in favor of Petra.[19] Respondents also presented the succeeding Deeds of Sale showing the transfer of Lot No. 2139 from Petra to Vicente[20] and from Vicente to Arturo[21] and the Deed of Confirmation of Absolute Sale of Unregistered Real Property executed by Arturo in favor of respondents.[22] Respondents also presented a certification[23] executed by P/Sr. Superintendent Julmunier Akbar Jubail, City Director of Iligan City Police Command and verified from the Log Book records by Senior Police Officer Betty Dalongenes Mab-Abo confirming that Andres Quinaquin made a report that Jose, Rogelio and Luciana Pasiño, Lucino Pelarion and Nando Avilo forcibly took his copra. This belied petitioners' allegation that they were in possession of Lot No. 2139 and respondents forcibly took possession of the property only in January 1993.

Considering that petitioners' application for free patent titles was filed only on 8 January 1994, when Lot No. 2139 had already become private land ipso jure, the Land Management Bureau had no jurisdiction to entertain petitioners' application.

Non-Registration of Homestead Patent Rendered it

Functus Officio

Once a homestead patent granted in accordance with law is registered, the certificate of title issued by virtue of the patent has the force and effect of a Torrens title issued under the land registration law.[24] In this case, the issuance of a homestead patent in 1952 in favor of Laureano was not registered. Section 103 of Presidential Decree No. 1529[25] mandates the registration of patents, and registration is the operative act to convey the land to the patentee, thus:

Sec. 103. x x x. The deed, grant, patent or instrument of conveyance from the Government to the grantee shall not take effect as a conveyance or bind the land but shall operate only as a contract between the Government and the grantee and as evidence of authority to the Register of Deeds to make registration. It is the act of registration that shall be the operative act to affect and convey the land, and in all cases under this Decree, registration shall be made in the office of the Register of Deeds of the province or city where the land lies. The fees for registration shall be paid by the grantee. After due registration and issuance of the certificate of title, such land shall be deemed to be registered land to all intents and purposes under this Decree. (Emphasis supplied)

Further, in this case, Laureano already conveyed Lot No. 2139 to Larumbe in 1947 before the approval of his homestead application. In fact, Larumbe already sold the land to Petra in 1949, three years before the issuance of the homestead patent in favor of Laureano. The trial court found that since 1947, the tenants of Lot No. 2139 had been delivering the owner's share of the harvest, successively, to Larumbe, Petra, Vicente and Arturo Teves, Dr. Monterroyo and Dindo Monterroyo. The trial court found no instance when the owner's share of the harvest was delivered to Jose Pasiño.

Hence, we sustain the trial court that the non-registration of Laureano's homestead patent had rendered it *functus officio*.

A Counterclaim is Not a Collateral Attack on the Title

It is already settled that a counterclaim is considered an original complaint and as such, the attack on the title in a case originally for recovery of possession cannot be considered as a collateral attack on the title.[26] *Development Bank of the Philippines v. Court of Appeals*[27] is similar to the case before us insofar as petitioner in that case filed an action for recovery of possession against respondent who, in turn, filed a counterclaim claiming ownership of the land. In that case, the Court ruled:

Nor is there any obstacle to the determination of the validity of TCT No. 10101. It is true that the indefeasibility of torrens title cannot be collaterally attacked. In the instant case, the original complaint is for recovery of possession filed by petitioner against private respondent, not an original action filed by the latter to question the validity of TCT No. 10101 on which petitioner bases its right. To rule on the issue of validity in a case for recovery of possession is tantamount to a collateral attack. However, it should not [b]e overlooked that private respondent filed a counterclaim against petitioner, claiming ownership over the land and seeking damages. Hence, we could rule on the question of the validity of TCT No. 10101 for the counterclaim can be considered a direct attack on the same. 'A counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff... It stands on the same footing and is to be tested by the same rules as if it were an independent action.' x x x.[28]

As such, we sustain both the trial court and the Court of Appeals on this issue.

Principle of Constructive Trust Applies

Under the principle of constructive trust, registration of property by one person in his name, whether by mistake or fraud, the real owner being another person, impresses upon the title so acquired the character of a constructive trust for the real owner, which would justify an action for reconveyance.[29] In the action for reconveyance, the decree of registration is respected as incontrovertible but what is sought instead is the transfer of the property wrongfully or erroneously registered in another's name to its rightful owner or to one with a better right.[30] If the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee, and the real owner is entitled to file an action for reconveyance of the property.[31]

In the case before us, respondents were able to establish that they have a better right to Lot No. 2139 since they had long been in possession of the property in the concept of owners, by themselves and through their

predecessors-in-interest. Hence, despite the irrevocability of the Torrens titles issued in their names and even if they are already the registered owners under the Torrens system, petitioners may still be compelled under the law to reconvey the property to respondents.[32]

WHEREFORE, we DENY the petition. We AFFIRM the 31 January 2003 Decision and the 5 August 2003 Resolution of the Court of Appeals in CA-G.R. CV No. 63199. Costs against petitioners.

SO ORDERED.

Puno, C.J. (Chairperson), Austria-Martinez, Corona, and Leonardo-De Castro, JJ., concur.

*As replacement of Justice Adolfo S. Azcuna who is on official leave per Special Order No. 510.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 42-60. Penned by Associate Justice Edgardo F. Sundiam with Associate Justices Ruben T. Reyes and Remedios Salazar-Fernando, concurring.

[3] Id. at 40.

[4] Id. at 61-85. Penned by Judge Valerio M. Salazar.

[5] Records, Vol. 1, p. 141.

[6] Id. at 145. Signed by Doroteo Soriano, Chief of Division of Forest Engineering.

[7] Id. at 142.

[8] Id. at 146.

[9] Referred to as Graciana Herbeto in the trial court's Decision.

[10] Records, Vol. 1, p. 150.

[11] Casiana in the Declaration of Real Property.

[12] Rollo, pp. 84-85.

[13] Id. at 366.

[14] 230 Phil. 590 (1986).

[15] Id. at 605.

[16] G.R. No. 54191, 8 May 1990, 185 SCRA 104.

[17] De Guzman v. Court of Appeals, 442 Phil. 534 (2002).

[18] Id.

[19] Records, Vol. 1, pp. 280-281.

[20] Id. at 282-283.

[21] Id. at 284-285.

[22] Records, Vol. 2, pp. 314-315.

[23] Id. at 311.

[24] Heirs of Santioque v. Heirs of Calma, G.R. No. 160832, 27 October 2006, 505 SCRA 665.

[25] Formerly Section 122 of the Land Registration Law.

[26] Sarmiento v. Court of Appeals, G.R. No. 152627, 16 September 2005, 470 SCRA 99.

[27] 387 Phil. 283 (2000).

[28] Id. at 300.

[29] Heirs of Tabia v. Court of Appeals, G.R. Nos. 129377 & 129399, 22 February 2007, 516 SCRA 431.

[30] Id.

[31] Mendizabel v. Apao, G.R. No. 143185, 20 February 2006, 482 SCRA 587.

[32] Id.

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