

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. IGNACIO LEONOR AND CATALINO RAZON, RESPONDENTS.

G.R. No. 161424. December 23, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari of the Court of Appeals (CA) Decision[1] dated December 19, 2003. The assailed decision adjudged the cancellation of the free patents and original certificates of title (OCTs) over two of the five lots in question in favor of petitioner.

The antecedents of the case are as follows:

On December 16, 1991, petitioner Republic of the Philippines, represented by the Regional Executive Director, Department of Environment and Natural Resources (DENR), Region IV, through the Office of the Solicitor General, filed separate complaints for Cancellation of Free Patent and OCT and Reversion against respondents Ignacio Leonor and Catalino Razon. The complaints involved the following properties:

- In Civil Case No. 55-91: Free Patent No. (IV-3A)-2182, covered by OCT No. P-1676 in the name of Ignacio Leonor, over Lot No. 10108, Cad. 511, Lemery Cadastre with an area of 722 square meters;
- In Civil Case No. 56-91: Free Patent No. (IV-3A)-2181, covered by OCT No. P-1675 in the name of Ignacio Leonor, over Lot No. 8617, Cad. 511, Lemery Cadastre with an area of 706 square meters;
- In Civil Case No. 57-91: Free Patent No. (IV-3A)-2180, covered by OCT No. P-1674 in the name of Catalino Razon, over Lot No. 10109, Cad. 511, Lemery Cadastre, with an area of 722 square meters;
- In Civil Case No. 58-91: Free Patent No. (IV-3A)-1891, covered by OCT No. P-1127 in the name of Ignacio Leonor, over Lot No. 9398, Cad. 511, Lemery Cadastre with an area of 2,066 square meters;
- In Civil Case No. 59-91: Free Patent No. (IV-3A)-1892, covered by OCT No. P-1128 in the name of Catalino Razon, over Lot No. 9675, Cad. 511, Lemery Cadastre with an area of 1,944 square meters.[2]

In Civil Case Nos. 55-91,[3] 56-91[4] and 57-91,[5] the complaints averred that, in an investigation conducted by DENR-Region IV, it was ascertained that Lot Nos. 10108, 8617 and 10109 were part of the non-disposable foreshore land and did not appear in the cadastral map or in the cadastral records as having been officially surveyed by the DENR. These defects allegedly constituted fraud which, in effect, ipso facto cancelled the free patents and the corresponding OCTs.

In contrast, the complaints in Civil Case Nos. 58-91[6] and 59-91[7] alleged that, on the basis of a protest filed by Luisa Ilagan Vda. de Agoncillo who claimed to be in possession of Lot Nos. 9398 and 9675 since time immemorial, an investigation was conducted by the DENR wherein it was discovered that (1) although the said lots appeared in the cadastral map, they were not cadastrally surveyed or approved cadastral lots as evidenced by the Alphabetical and Numerical List of Claimants; (2) the lots were verified to be part of the early survey

conducted on June 22, 1977 and identified as Lot No. 6192 of Cadastre 511, Lemery Cadastre, subsequently covered by Plan SWO-4A-000306-D in the name of Luisa Ilagan; and (3) Lot Nos. 9398 and 9675 were conveyed to respondents, respectively, through an "Affidavit of Relinquishment of Rights" executed on November 27, 1986 by a certain Anacleto Serwelas who had no right whatsoever over the land. The complaints further averred that serious discrepancies existed among the technical descriptions appearing in the certificates of title, the cadastral map and the transfer of rights. These defects, according to the complaint, also constituted fraud which, in effect, ipso facto cancelled the said patents and the corresponding OCTs.

On February 10, 1992, respondents filed their separate answers^[8] uniformly stating as follows: (1) the free patents were issued in accordance with existing law and procedure; (2) the subject lots were surveyed by Geodetic Engineer Alexander Jacob of the Bureau of Lands and inspected and certified to be alienable and disposable by the Land Inspector of the Bureau of Lands; (3) the right of action for the cancellation of the same had already prescribed since more than one year had already lapsed since the free patents were issued; (4) they had been in continuous, exclusive and notorious possession and occupation of the lots for more than 30 years and they had developed them into a beach resort, with valuable facilities; and (5) the subject lots were not investigated by the DENR-Region IV and there was no resolution issued by the said office to that effect.

Luisa Ilagan was allowed to intervene in Civil Case Nos. 58-91 and 59-91. She claimed that Lot Nos. 9398 and 9675 were part of the parcel of land that she owned, designated as Lot No. 6192, Cad-511-D of the Lemery Cadastre and covered by Tax Declaration No. 0527; that this parcel of land was surveyed on June 22, 1977 and Plan SWO-4A-000306-D was approved on April 18, 1980; that she had been in peaceful possession of the subject land for more than 60 years but, because of old age, she failed to visit and supervise the land; that Anacleto Serwelas was her tenant who took advantage of her absence and succeeded in selling the western portion of the subject land in favor of respondents, without her knowledge and consent; and that in 1987, she learned of respondents' applications for free patent and of the issuance of the OCTs in their names; hence, she filed a formal protest with the DENR asking for an investigation.^[9]

In answer to these allegations, respondents averred that Luisa Ilagan had already sold her properties to her tenants, and that Plan SWO-4A-000304 in her name was rejected by the Bureau of Lands as shown in the Cadastral Map of Lemery Cadastre, Cad. 511, Case 22.^[10] Luisa Ilagan replied that the rejection of Plan SWO-4A-000304 was null and void for lack of notice. She insisted that respondents had no right over the subject lots since they acquired them from Anacleto Serwelas, who was not the owner of the properties.

On June 14, 2000, the Regional Trial Court rendered a decision in favor of respondents, thus:

WHEREFORE, for insufficiency of evidence presented by the plaintiff Republic of the Philippines and the Intervenor, to prove that fraud was committed to acquire the title of the land in dispute, all the above five entitled cases are hereby ordered DISMISSED for lack of merit.

IT IS SO ORDERED.^[11]

The heirs of Luisa Ilagan and the petitioner filed separate appeals with the CA.

On February 11, 2002, the CA partially granted petitioner's prayers. It declared that two of the five lots--Lot Nos. 10108 and 10109--are foreshore lands. The CA noted that (a) serious discrepancies exist between the cadastral map and the technical description in the OCTs covering these two lots; (b) the said lots do not appear in the cadastral map; (c) Atty. Raymundo L. Apuhin, petitioner's witness, testified that the said lots were not surveyed and approved by the DENR; and (d) they do not appear to be covered by corresponding tax declarations. Based on the foregoing, the CA concluded that these two lots are foreshore lands. Consequently, it ordered the cancellation of Free Patent No. (IV-3A)-2182 and OCT No. P-1676 over Lot No. 10108 and Free Patent No. (IV-3A)-2180

and OCT No. P-1674 over Lot No. 10109. As for Lot Nos. 8617, 9398 and 9675, the CA sustained the trial court's finding that there was no sufficient evidence to prove that they are foreshore lands or part of Luisa Ilagan's property. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the assailed decision dated June 14, 2000 of the RTC, Branch 5, Lemery, Batangas in Civil Cases Nos. 55-91 to 59-91 is hereby AFFIRMED with MODIFICATION. Free Patent No. (IV-3A)-2182 with the corresponding OCT No. P-1676 in the name of Ignacio Leonor over Lot No. 10108, and Free Patent No. (IV-3A)-2180 with the corresponding OCT No. P-1674, in the name of Catalino Razon over Lot [No.] 10109 are hereby ordered CANCELLED from the Registry of Deeds of Batangas.

The rest of the decision stands.

SO ORDERED.[12]

This petition for review on certiorari seeks the reversion of Lot Nos. 8617, 9398 and 9675 to petitioner. On this score, petitioner ascribes the following error to the appellate court:

THE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW WHEN IT SUSTAINED THE VALIDITY OF THE THREE SUBJECT FREE PATENTS AND TITLES ALBEIT THEY PERTAIN TO INALIENABLE FORESHORE LANDS AND DESPITE THE FRAUDULENT ENTRIES IN RESPONDENTS' FREE PATENT APPLICATIONS.[13]

Petitioner argues that the lands are inalienable foreshore lands. It points out that the five lots comprise the whole Leonor Beach Resort and that when the technical descriptions of the subject lots were plotted on the cadastral map of Barangay Nonong Castro, the lots were identified as foreshore lands, which are not capable of appropriation.[14] Petitioner adds that the burden is on respondents to prove that the lands that have been registered in their names are alienable and disposable.[15]

Petitioner further contends that, assuming that the subject lands are not foreshore lands, the free patents should nonetheless be cancelled, because respondents committed fraud and made misrepresentations in their free patent applications in that (a) they declared that the subject lots were cadastrally surveyed when, in truth, they do not appear in the approved Cadastral Plan of Lemery, Batangas, Cad. 511, Case 22; (b) respondent Ignacio Leonor declared that he acquired Lot No. 9398 from Moises and Ricardo Peren and Vicente de Roxas, whose names do not however appear on the lists of claimants for Barangay Nonong Castro, Case 22, Lemery Cadastre, indicating that they are fictitious persons; (c) respondent Ignacio Leonor failed to enter the names of his predecessors-in-interest as to Lot No. 8617, as required in the free patent application; (d) serious discrepancies were noted in the description of Lot No. 9398 in the application for free patent and in the technical description in OCT No. P-1127; and (e) Lot No. 9675 does not appear in the lists of claimants.[16]

Incidentally, it should be pointed out that, other than Lot Nos. 10108 and 10109, only Lot No. 8617 was alleged in the complaint (Civil Case No. 59-91) to be part of the indisposable foreshore land. In fact, there is no piece of evidence pointing to Lot Nos. 9398 and 9675 as being foreshore lands. Petitioner seeks the cancellation of the free patents over Lot Nos. 9398 and 9675 solely on the ground that they were procured through fraud and misrepresentation.

The Court finds that the petition has no merit.

As a rule, the findings of fact of the trial court when affirmed by the CA are final and conclusive on, and cannot be reviewed on appeal by, this Court as long as they are borne out by the records or are based on substantial evidence. The Court is not a trier of facts, its jurisdiction being limited to reviewing only errors of law that may have been committed by the lower courts.[17] But to appease any doubt on the correctness of the assailed ruling,

we have carefully perused the records and, nonetheless, arrived at the same conclusion.

To be sure, petitioner was not able to adequately establish that Lot No. 8617 is a foreshore land or that the free patents covering Lot Nos. 8617, 9398 and 9675 were procured through fraud or misrepresentation.

At the outset, petitioner argues that the burden to prove that the lands in question are alienable and disposable is upon respondents. The argument is out of line. This case is not a land registration proceeding but involves reversion of lands already registered in the names of respondents. At this stage, it would be reasonable to presume that respondents had established that the properties are alienable and disposable considering that they have already succeeded in obtaining free patents and OCTs over the properties. In this reversion proceeding, premised on the claim that the property is foreshore land or that the patents were obtained through fraud or misrepresentation, the burden is now upon petitioner to prove such allegations.

With regard to Lot No. 8617, the records reveal that the only piece of evidence alluding to this lot being foreshore land is the testimony of Atty. Apuhin of the DENR-Region IV, which is quoted as follows:

Q-

And what did you find in relation to the Free Patent No. (IV-3A) 2180 insofar as that plotting made by the Legal Division of the DENR is concerned?

A-

In my request, I found out that x x x Lot No. 8617 is a foreshore lot.

Q-

How about the survey record, what did you find insofar as Lot No. 8617 is concerned?

A-

In verification with the Survey Division, Lot No. 8617 is definitely a part of [the] foreshore lot as shown in the approved cadastral map of Lemery.

Q-

By the way, when you speak of foreshore lot, what do you mean?

A-

It is an area covered by the flow of tide in its highest equational tide which is 20 meters from the highest equational tide.

Q-

If it is a foreshore land, can it be the subject of Free Patent application?

A-

No, sir.

x x x x

Q-

After conducting the necessary investigation insofar as Lot 8617 is concerned, what is your conclusion?

A-

After conducting the necessary investigation insofar as Lot 8617 is concerned, Lot 8617 is a foreshore lot.

Q-

If it is a foreshore lot, what is your conclusion?

A-

A foreshore lot cannot be the subject of acquisition [of] Free Patent.

Q-

If it cannot be the subject of acquisition, what is the effect on the application for Free Patent of x x Lot No. 8617?

A-

The application for x x x Free Patent should not have been approved.[18]

Certainly, Atty. Apuhin's testimony fails to convince us. The interview markedly lacks details as to how he conducted an investigation to determine whether Lot No. 8617 is foreshore land or an explanation as to how he arrived at his conclusion. Although it was stated in the records that Atty. Apuhin conducted an ocular inspection, his only finding on the basis of this inspection was that the lots had already been developed as a beach resort. In his direct testimony, he vaguely stated that the lot is foreshore land as shown in the cadastral map. We have examined the said cadastral map of Barangay Nonong Castro, Lemery, Batangas but we noticed that it does not indicate, in any way, that Lot No. 8617 is foreshore land. What is obvious in the said map is that the lot is close to the waters of Balayan Bay. However, the land's proximity alone to the waters alone does not necessarily make it a foreshore land.[19] It must be shown that the land is "between high and low water and left dry by the flux and reflux of the tides" or "between the high and low water marks," which is "alternatively wet and dry according to the flow of the tide." [20]

We likewise agree with the CA that petitioner was not able to establish that fraud or misrepresentation attended the application for free patents. In the same way that petitioner has the burden of proving that Lot No. 8617 is a foreshore land, petitioner, as the party alleging that fraud and misrepresentation vitiated the application for free patents, also bears the burden of proof.[21] Fraud and misrepresentation are never presumed, but must be proved by clear and convincing evidence; mere preponderance of evidence is not even adequate.[22]

To show that there was fraud, petitioner insists that the three lots do not appear in the cadastral map of Barangay Nonong Castro, which allegedly indicates that they were not cadastrally surveyed. This is manifestly untrue as the said cadastral map of Lemery Cadastre, Cad. 511, Case 22, clearly includes and indicates the locations of Lot Nos. 8617, 9398 and 9675.

Petitioner also cites discrepancies in the description of Lot No. 9398 in the free patent application and in the technical description in OCT No. P-1127. If true, such discrepancies would not necessarily imply that respondents employed fraud or misrepresentation in obtaining the free patent. After all, there was no proof that the lot referred to in the free patent application was different from the lot described in OCT No. P-1127.

Further, petitioner points out that in the free patent application for Lot No. 8617, respondent Ignacio Leonor did not indicate the names of his predecessors-in-interest and the date when he began his possession and cultivation of the lot. Petitioner contends that this was in violation of Section 91[23] of the Public Land Act and, as such, resulted in the ipso facto cancellation of the free patent.

The mere omission of an information from the patent application, though essential, does not, per se, cause the ipso

facto cancellation of the patent. It must be shown that the information withheld would have resulted in the disapproval of the free patent application had it been disclosed. The names of the predecessors-in-interest are obviously required to be indicated in the application form in order to show that the applicant has complied with the occupation and cultivation requirement under the law. In this case, petitioner had no evidence showing that respondents had not complied with the occupation and cultivation requirement under the law. Considering this, we are ill-equipped to pronounce the ipso facto cancellation of free patents.

With regard to Lot No. 9398, petitioner argues that the names of the predecessors of Ignacio Leonor -- Vicente de Roxas, Moises and Ricardo Peren -- listed in the application form for the free patent are fictitious persons, as their names do not appear in the List of Claimants. The list also does not include Lot No. 9675, which petitioner claims is an indication that the lot was not cadastrally surveyed.

Again, we are not convinced. Undoubtedly, the list of claimants is evidence that the lots enumerated therein were cadastrally surveyed, and that the name indicated after each lot number was that of the claimant of the lot at the time of the survey. But despite Atty. Apuhin's testimony, the list cannot be given weight particularly with respect to lots not included therein. In other words, the list cannot be taken as evidence that lots that were not included in the list were not cadastrally surveyed or that only the claimants named therein had rights over that particular lot. This is only reasonable considering that it is not even known, for sure, when the list was made, how it was prepared, and how often it was updated.

Atty. Apuhin's testimony on the preparation of the list and on there being no other list for other lots in Barangay Nonong Castro is not worthy of credence. He admitted during trial that he was not privy to the preparation of the list. Apparently, he was also not the actual custodian of the list since a certain Florencio V. Carreon, Chief, Records Unit, certified the copy of the list. Atty. Apuhin's ignorance on this matter is made more apparent by the following testimony:

Q-

You were a privy in the preparation of the list?

A-

I am not.

Q-

Since you were not a privy to the preparation of the list[,] you must have inquired how often was the list prepared[.] The list given to you was the list on the approved Cadastral Survey?

A-

Case No. 22.

Court:

Q-

The question of the Court is that, constantly this list is revised because of the approval of certain claimants in relation to the approved survey?

A-

Yes, sir.

Q-

As you inquired, what was the date when this list shown to you alphabetically was approved?

A-

It was approved on March 12, 1987.

Q-

Because the alphabetical list is based on that?

A-

Yes, sir.

x x x x

Q-

Do you know, based on record when the cadastral survey was implemented, that cadastral survey which was approved on March 12, 1987?

A-

I did not see.

Q-

This list of claimants, they are listed while the cadastral survey is being done?

A-

Yes, sir.

Q-

Based on the approved survey plan?

A-

Yes, sir.

Q-

It would appear at the time of the survey?

A-

Yes, sir.

Q-

The survey plan is approved later on?

A-

Yes, sir.

Q-

On your own knowledge based on the investigation, was there any list subsequent to March 12, 1987 released by the DENR?

A-

None, sir.

Q-

But you look[ed] at this application on your investigation?

A-

Yes, sir.

Q-

And you affirm that this was the last list of claimants alphabetically done in relation to [Barangay] Nonong Castro?

A-

Yes, sir.

Fiscal:

Q-

Aside from this list of claimants, has there been other list of claimants, prior list?

A-

I have no knowledge[24]

We also do not believe that Moises and Ricardo Peren and Vicente de Roxas are fictitious persons. From the investigation conducted by Atty. Apuhin, he learned that Moises Peren executed a Waiver of Real Rights on June 16, 1986 in favor of Ignacio Leonor.[25] It also appears from the records that these persons were respondents in a case for accion reivindicatoria and quieting of title filed by Luisa Ilagan.[26]

From the foregoing, the dearth of petitioner's evidence is glaring. DENR-Region IV did not conduct a thorough investigation of the alleged irregularities imputed to respondents in obtaining the free patents. There was not even a written report on the investigation submitted to the court. In view of this, we are constrained to sustain the findings of both the trial court and the appellate court and to deny the petition.

WHEREFORE, premises considered, the petition is DENIED. The Court of Appeals Decision dated December 19, 2003 is AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Velasco, Jr., Nachura, Peralta, and Del Castillo,[*] JJ., concur.

[*] Additional member per Special Order No. 805 dated December 4, 2009.

[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Eubulo G. Verzola and Edgardo F. Sundiam, concurring; rollo, pp. 35-46.

[2] Id. at 36-37.

[3] Id. at 56-60.

- [4] Id. at 77-80.
- [5] Id. at 96-100.
- [6] Id. at 117-122.
- [7] Id. at 139-144.
- [8] Id. at 161-189.
- [9] Id. at 191-200.
- [10] Id. at 202-203, 218-219.
- [11] Id. at 419-420.
- [12] Id. at 45-46.
- [13] Id. at 20.
- [14] Id. at 22-23.
- [15] Id. at 24-A.
- [16] Id. at 25-27.
- [17] Prudential Bank v. Lim, G.R. No. 136371, November 11, 2005, 474 SCRA 485, 491.
- [18] TSN, May 2, 1995, pp. 6-8.
- [19] See Republic of the Phils. v. Alagad, 251 Phil. 406 (1989).
- [20] Republic of the Phils. v. Court of Appeals, 476 Phil. 693, 701 (2004).
- [21] Spouses Morandarte v. Court of Appeals, 479 Phil. 870 (2004).
- [22] Id.
- [23] Sec. 91 of the Public Land Act provides:
- The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the considerations of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall ipso facto produce the cancellation of the concession, title, or permit granted.
- [24] TSN, November 24, 1993, pp. 5-6.
- [25] TSN, November 18, 1993, p. 14.
- [26] Exhibit 26, Folder of Exhibits.

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