

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY RAW-AN POINT ELEMENTARY SCHOOL, PETITIONER, V. SPOUSES DOLORES AND ABE LASMARIAS; AND COOPERATIVE BANK OF LANA DEL NORTE, REPRESANTE...*G.R. No. 206168. April 26, 2017*

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-206168/>**PERALTA, J.:**

For resolution of this Court is the Petition for Review on Certiorari under Rule 45 dated April 25, 2013 of petitioner Republic of the Philippines, represented by Raw-An Point Elementary School that seeks to reverse and set aside the Court of Appeals' (CA) Decision[1] dated March 1, 2013 that dismissed petitioner's appeal in CA-G.R. CV No. 01536-MIN and affirmed with modification the Decision[2] dated January 28, 2008 of Branch 7, Regional Trial Court, Tubod, Lanao del Norte in favor of respondents spouses Dolores and Abe Lasmarias in a case for recovery of possession filed by the same respondents against herein petitioner.

The facts, as found by the RTC and the CA, follow.

Respondents, spouses Dolores and Abe Lasmarias, bought Lot No. 1991-A-1, Csd-12-000051 with an area of 4.8595 hectares including a fishpond located at Raw-An Point, Baroy, Lanao del Norte from Aida Solijon,[3] who executed a Deed of Sale of Registered Land dated May 6, 1991 signed by her husband, Nicanor Aguilar, Jr. and notarized before a Notary Public. The said lot was registered to Solijon per OCT No. P-8720 issued by virtue of Free Patent No. XII-2744, applied for by Solijon in 1984 and granted in 1986.

The sale was not registered or annotated on the OCT nor was the title transferred in respondents' names in order to avoid paying taxes.

In 1997 to 1999, respondents, through a Special Power of Attorney executed by Solijon, executed a Real Estate Mortgage on the disputed lot with the Cooperative Bank of Lanao del Norte, however, respondents failed to satisfy their obligation resulting to the foreclosure of the mortgaged property. The said mortgage was annotated on the OCT without a deed of sale attached. The last entry on the OCT is the sale executed by the sheriff in favor of the bank as the highest bidder. Accordingly, the respondents were given five (5) years to redeem the property.

In the meantime, a relocation survey was conducted on the disputed lot and Geodetic Engr. Rogelio Manoop, Jr. found that a portion of petitioner, Raw-An Point Elementary School, partly encroached on Lot 1991-A-1, Csd-12-000051. Respondents informed the school principal and they agreed to have another survey that resulted to the same findings. Thus, respondents sent a letter to vacate dated July 26, 2001 to the petitioner, but to no avail.

Respondents then, on September 13, 2001, filed a complaint for recovery of possession against the petitioner.

Respondents presented Engr. Manoop's sketch plan and Certification dated October 30, 2001 stating that a portion of the petitioner's structure containing an area of 7,700 sq. m., more or less, is within Lot 1991-A-1,

Csd-12-000051. Respondents knew that petitioner, through the then Department of Education Culture and Sports (DECS), owns a lot in the same area donated to it by Necias Balatero through a Deed of Donation executed on January 14, 1992, however, respondents insisted that the lot donated is not the present school site but rather the lot adjacent thereto. Respondents further claimed that Nicanor Aguilar, Sr. previously donated a 1.179-hectare lot to the school, first in the early 1950s or 1960s and second in the early 1990s, but upon seeing the sketch, respondents saw that the present school site is also different from the one Nicanor Aguilar, Sr. donated.

The Cooperative Bank of Lanao del Norte intervened in the proceedings before the RTC claiming that it is the present registered owner of the subject lot under TCT No. T-23418 by virtue of the auction sale after the respondents failed to pay their loan secured by the property mortgaged. According to the bank, although the OCT presented to them was registered in Solijon's name, it allowed respondents to use it as security because the Special Power of Attorney executed by Solijon allowed respondents to mortgage the same property. The bank claimed good faith and prayed that it be declared the legitimate owner of the land and for petitioner to vacate the property.

Petitioner, on the other hand, insisted that the school building has been in existence on the subject lot since 1950 as supported by school records showing its operation as early as 1955. It, however, conceded that the lot donated to them by Necias Balatero is adjacent to the school but maintained that the donation was only in addition to the present school site. Petitioner also admitted that it has no title on the property where the school presently stands, but according to petitioner, considering the length of the school's existence thereon, it would have been improbable for another person to obtain title thereto, much less, a free patent. Petitioner further averred that respondents' action has already prescribed. It also argued that at the time Solijon applied for a Free Patent, the lot was already occupied, thus, Solijon must have committed fraud and misrepresentation when she applied for a Free Patent which requires that the applicant must be in exclusive possession of the property. Such fraud and misrepresentation, therefore, according to petitioner, is enough to nullify the grant of patent and title in Solijon's name.

Thereafter, the RTC ordered for a relocation survey which was conducted on December 14, 2003 wherein it was found that the school actually occupied 8,675 sq. m. of Solijon's lot and that the lot in petitioner's name is located 12 meters away from the school compound, which is along the south portion of Solijon's property. However, no house of Solijon was found within the subject lot.

During his testimony, the Officer-in-Charge of the Community Environment and Natural Resources Office (CENRO), Kolambugan, Lanao del Norte, stated that the records, with respect to Solijon's patent application, were damaged by termites and could no longer be reproduced, however, their records officer attested that Solijon applied for a patent as recorded on their patent book.

Meanwhile, on July 19, 2006, 8,675 sq. m. of the subject lot was bought by respondents from the Cooperative Bank of Lanao del Norte.

In its Decision dated January 28, 2008, the RTC ruled in favor of the respondents and disposed of the case as follows:

WHEREFORE, in the light of the foregoing, and by preponderance of evidence, judgment is rendered by the Court in favor of plaintiffs and against defendants, especially [the] Department of Education (DepEd), formerly known as Department of Education, Culture and Sports, to wit:

1) Ordering defendants, especially, DepEd (formerly DECS), to surrender to plaintiffs after the finality of the decision, the 2,760 Square Meters of 8,675 Square Meters, as per Exhs. "E-1" and "E-4," which they are in possession and usurped from them, out of the total area of 48,595 Square Meters, located at Raw-An Point, Baroy, Lanao del Norte (although it [is] still covered by OCT No. P-8720, in the name of Aida Solejon;

- 2) Ordering defendants, especially DepEd (formerly DECS), to remove school buildings and other structures, which they illegally constructed, and found in said portion (per paragraph No. 1 above), and to vacate the same, including the fishponds they are occupying, after the finality of the decision;
- 3) Ordering defendants, to pay jointly and solidarity, plaintiffs P70,000.00 actual damages, twice a year of P140,000.00 per year of harvest of bangus and shrimps out of the fishpond, which is part of Lot 1991-A-1 of plaintiffs, since the demand to vacate on July 26, 2001, until the finality of the decision of which they engaged themselves in proprietary undertakings; and attorney's fees of P20,000.00 and P1,000.00 per hearing. But no moral and exemplary damages are awarded, for being devoid of merit and consideration;
- 4) On Intervention by plaintiff-in-intervention, Cooperative Bank of Lanao del Norte, its rights over the property, subject to this case are respected, subject to the interests of plaintiffs, who had repurchase[d] the portion of Lot 1991-A-1 and covered by deposit to repurchase, and for the rest to be repurchased, if any, as admitted by its complaint-in-intervention, and the exhibits it offered;
- 5) Ordering the dismissal of the special/affirmative defenses and counterclaim of defendants;
- 6) Ordering defendants to pay the costs of the proceedings.

SO ORDERED.[4]

Petitioner filed its appeal with the CA, and on March 1, 2003, the latter court affirmed the RTC decision with modifications, thus:

WHEREFORE, the appeal is DENIED. The January [28], 2008 Decision of the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, in Civil Case No. 07-524 is AFFIRMED with MODIFICATIONS. Defendant-appellant is ORDERED to vacate and surrender the 8,675 sq. m. lot included in OCT No. P-8720, to the plaintiff-intervenor-appellee Cooperative Bank of Lanao del Norte as registered owner thereof per TCT No. 23,418. The award for actual damages is DELETED.

SO ORDERED.[5]

Hence, the present petition.

The ground relied upon and the argument raised by petitioner are as follows:

GROUND RELIED UPON FOR THE ALLOWANCE OF THE PETITION

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN RENDERING ITS DECISION DATED MARCH 1, 2013 WHICH DISMISSED PETITIONER'S APPEAL IN CA-G.R. CV No. 01536-MIN

ARGUMENT

PETITIONER WAS ABLE TO PRESENT CLEAR AND CONVINCING EVIDENCE SHOWING THAT THE FREE PATENT OVER THE SUBJECT PROPERTY WAS PROCURED THROUGH FRAUD AND MISREPRESENTATION.[6]

Petitioner maintains that it was able to adduce clear and convincing evidence that Solijon employed fraud in procuring the patent. According to petitioner, the legal infirmity in Solijon's title lies on the fact that she did not disclose in her application for free patent filed with the Bureau of Lands in 1984 that a portion of the property subject of her application was already occupied and utilized by the Raw-An Point Elementary School since the 1950s. Petitioner, however, admits that the record containing Solijon's application for free patent could no longer

be located as the same was allegedly destroyed and eaten by termites.

In their Comment dated May 26, 2014, respondents assert that the existence or non-existence of fraud and misrepresentation is a question of fact that can only be resolved by the trial court and the CA and that the remedy of petition for review under Rule 45 can only be availed of on the ground of pure questions of law.

In its Reply dated September 9, 2014, petitioner contends that it raised a question of law because it seeks the review of the CA's application of the pertinent provisions of the Public Land Act and the existing jurisprudence in light of the evidence presented by the parties. Petitioner argues that the CA misapplied Sections 90 (g) and 91 of the Public Land Act relating to the requirement that an applicant for free patent must state under oath in his application that the land applied for is not occupied, improved or cultivated, either entirely or partially, by another.

The petition is meritorious.

A petition for review filed under Rule 45 may raise only questions of law. The factual findings by the Court of Appeals, when supported by substantial evidence, are generally conclusive and binding on the parties and are no longer reviewable unless the case falls under the recognized exceptions.[7] This Court is not a trier of facts and we are not duty bound to re-examine evidence.[8] The existence or non-existence of fraud in an application for free patent depends on a finding of fact insofar as the presence of its requirements.[9] However, these rules do admit exceptions.[10] Over time, the exceptions to these rules have expanded and this case falls under one of those exceptions. At present, there are 10 recognized exceptions that were first listed in *Medina v. Mayor Asistio, Jr.*: [11]

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[12]

While the RTC and the CA in this case are similar in their factual findings, there appears to be no substantial evidence to prove that Solijon did not commit fraud or misrepresentation in her application for free patent. It must be remembered that petitioner was not able to prove the existence of fraud because the records of Solijon's patent application were damaged by termites and could no longer be reproduced, as testified to by the Officer-in-Charge of the CENRO, Kolambugan, Lanao del Norte. This, however, does not mean that no fraud actually exists. It only means that Solijon's free patent application was not presented before the RTC. Furthermore, it is also erroneous to conclude that if Solijon's free patent was obtained through fraud, it necessarily follows that Balatero's free patent was, likewise, obtained through fraud. Nothing in the records would show that the parties presented Balatero's free patent application or that any party alleged that he committed fraud or misrepresentation by claiming that the land he applied for was unoccupied. If at all, the fact that Balatero donated a portion of the land he applied for to the school could mean that he recognized the existence of an occupant and a previously constructed school building on the land, or that his application was made subject to the school's occupation of a portion of the land he applied for. In addition, the RTC noted that petitioner did not give Solijon a day in court either by filing a third-party complaint or by including her as defendant-in-intervention. Yet, the RTC made a conclusion against Balatero's free patent application although he was also not a party to the case.

Anent Solijon's free patent application, the said application was in 1984 and was granted two years later, in 1986. The uncontested facts, however, is that the school building had been in existence since 1950 and the school had been in operation since 1955 as proven by the school records submitted by petitioner to the RTC that go back as early as 1955, clearly indicating that Solijon was not in exclusive possession of Lot No. 1991-A-1 when she applied for the free patent in 1984. Under paragraph 1, Section 44, Chapter VII of Commonwealth Act No. 141,[13] as amended by Republic Act No. 782,[14] the free patent applicant: (1) has to be a natural born citizen of the Philippines who is not the owner of more than twenty-four hectares; and (2) since 4 July 1945 or prior thereto, has continuously occupied and cultivated, whether by himself or his predecessor-in-interest, a tract of or tracts of public agricultural lands subject to disposition not exceeding 24 hectares. Moreover, the application must be accompanied by a map and the technical description of the land occupied, along with affidavits proving his occupancy from two disinterested persons residing in the municipality or barrio where the land may be located. The facts of the case showed that the school's occupation of the contested portion of Lot No. 1991-A-1 preceded Solijon's free patent application in 1984 by 34 years. As such, Solijon could not have continuously occupied and cultivated by herself or through her predecessors-in-interests the contested 8,675 square meters of land prior to her application for free patent because there is an existing school on the area. To bolster the school's prior occupation of the subject land, the relocation survey ordered by the RTC showed that no house of Solijon was found within the same area.

In two cases, this Court has ruled that there was fraud in the applications where the applicants did not disclose that the land they were applying for were already reserved as sites for school purposes. In *Republic v. Lozada*,[15] therein respondent filed an application for registration and confirmation of two parcels of land that she allegedly inherited from her parents, who in turn, had continuous and exclusive possession of the same, hence, the application was granted. The Republic filed a petition to review the registration and cancel the certificate of title on the ground that they were procured by actual fraud. The lots were not only portions of the public domain, but there was a resolution from the municipal council reserving the lots for school site purposes. This Court ruled that Lozada was guilty of fraud for not disclosing important facts in her application for registration, including the fact that her husband's application was previously rejected because the lands were reserved as a site for school purposes. In another case[16] decided by this Court, therein private respondent Ceferino Paredes purchased a parcel of land, and two years later, applied for Free Patent over the same land but with slightly bigger area. The application was approved and Paredes was issued a Free Patent. Later on, an OCT was issued in Paredes' name. The Sangguniang Bayan sought the help of the Director of Lands and the Solicitor General in recovering the land on the ground that it was designated by the Bureau of Lands as a school site long before title was issued in the name of Paredes. This Court ruled that there is a legal infirmity in Paredes' title because the land had been reserved as a school site long before his free patent application; he knew of such reservation before he filed his application; and his knowledge was apparent from the evidence he presented before the trial court. The Court also noted that Paredes did not mention the reservation in his application and, as such, he was guilty of fraud, misrepresentation, and deceit.

In this case, the facts disclosed not only a reservation for a school site but an already existing school building on the contested land. The school building was built on the subject land 34 years prior to Solijon's free patent application and the school had been in operation for 29 years also prior to Solijon's free patent application. Thus, it is impossible for Solijon not to know of the existence of the school prior to her free patent application. Solijon, therefore, could not apply, and should not have been granted free patent over the portion of Lot No. 1991-A-1 that was already occupied by petitioner 34 years prior to her free patent application.

WHEREFORE, the Petition for Review on Certiorari under Rule 45 dated April 25, 2013 of petitioner Republic of the Philippines, represented by Raw-An Point Elementary School is GRANTED and the Decision of the Court

of Appeals dated March 1, 2013 is REVERSED and SET ASIDE. Consequently, the Decision dated January 28, 2008 of Branch 7, Regional Trial Court, Tubod, Lanao del Norte is ANNULLED and the Complaint dated September 6, 2001 in Civil Case No. 07-524 is DISMISSED.

SO ORDERED.

Carpio, (Chairperson), Mendoza, Leonen, and Martires, JJ., concur.

[1] Penned by Associate Justice Henri Jean Paul B. Inting, with the concurrence of Associate Justices Edgardo T. Lloren and Jhosep Y. Lopez concurring; rollo, pp. 32-44.

[2] Penned by Presiding Judge Alan L. Flores; id. at 67-91.

[3] Also spelled "Solejon" in some parts of the records.

[4] Id. at 89-90.

[5] Id. at 44. (Emphasis in the original)

[6] Id. at 15.

[7] *Medina v. Court of Appeals, et al.*, 693 Phil. 356, 366 (2012).

[8] Id.

[9] *Pedro Mendoza, et al. v. Reynosa Valte*, G.R. No. 172961, September 7, 2015.

[10] *Pascual v. Burgos*, G.R. No. 171722, January 11, 2016, 778 SCRA 189, 205.

[11] 269 Phil. 225 (1990) [Per J. Bidin, Third Division].

[12] *Medina v. Mayor Asistio, Jr.*, supra at 232.

[13] Section 44. Any natural-born citizen of the Philippines who is not the owner of more than twenty-four hectares and who since July fourth, nineteen hundred and twenty-six or prior thereto, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest, a tract or tracts of agricultural public lands subject to disposition, or who shall have paid the real estate tax thereon while same has not been occupied by any person shall be entitled, under the provisions of this chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twenty-four hectares.

[14] Section 1. Any provision of law, rules and regulations to the contrary notwithstanding, any natural born citizen of the Philippines who is not the owner of more than twenty-four hectares, and who since July fourth, nineteen hundred and forty-five or prior thereto, has continuously occupied and cultivated, either by himself or through his predecessors in interest, a tract or tracts of agricultural public lands subject to disposition, shall be entitled, under the provisions of this Act, to have a free patent issued to him for such tract or tracts of such land not to exceed twenty-four hectares. The application shall be accompanied with a map and the technical description of the land occupied along with affidavits proving his occupancy from two disinterested persons residing in the municipality or barrio where the land may be located.

[15] 179 Phil. 396 (1979).

[16] *Republic v. Court of Appeals*, 406 Phil. 597 (2001).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.