

**GLORIA A. FERRER, PETITIONER, VS. HON. ANTONIO BAUTISTA,
MARIANO BALANAG, AND MAGDALENA DOMONDON,
RESPONDENTS.**

G.R. No. 46963. March 14, 1994

Ponente: VITUG, J.

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VITUG, J.:

This petition for review on certiorari seeks to reverse and set aside the order, dated 11 December 1976, of the Court of First Instance (now Regional Trial Court) of La Union, Branch III, dismissing petitioner's complaint for Quieting of Title to Real Property, as well as its order of 03 May 1977, denying the motion for reconsideration.

Pursuant to this Court's Resolution, dated 19 August 1977 (p. 4, Rollo), petitioner was allowed to file the instant petition under Republic Act No. 5440 considering that only questions of law had been raised.

On 03 August 1978, the Court dismissed the petition for lack of interest due to the failure of petitioner's counsel to submit the requisite memorandum in support of the petition (p. 58, Rollo). In a Resolution, dated 28 September 1978 (p. 63, Rollo), however, the Court resolved to reconsider the dismissal and to reinstate the petition.

Under controversy is a strip of land south of Lot 1980 of the Cadastral survey of Aringay, La Union. Petitioner claims its ownership by virtue of accretion, she being the owner of Lot 1980 covered by TCT No. T--3280, which is immediately north of the land in question. On the other hand, private respondents equally assert ownership over the property on account of long occupation and by virtue of Certificate of Title No. P-168, in the name of respondent Magdalena Domondon, pursuant to Free Patent No. 309504 issued on 24 January 1966 (p. 29, Rollo).

On 23 March 1976, petitioner Gloria A. Ferrer filed a complaint with Branch III of the then Court of First Instance of La Union to "Quiet Title to Real Property" against herein respondents Mariano Balanag and Magdalena Domondon. The case was denominated Civil Case No. A-514.

Prior to Civil Case No. A-514, petitioner had also filed with the Court of First Instance of La Union, Branch III, a complaint for reivindicacion (Civil Case No. A-86), dated 25 November 1956, against private respondents. Herein respondent Judge, who also handled the case, dismissed, on 10 February 1976, the complaint, without prejudice, on the ground that the court had no authority to cancel or annul the decree and the title issued by the Director of Lands on the basis of a mere collateral attack (pp. 22-23, Rollo).

On 11 March 1976, private respondents also moved for the dismissal of Civil Case No. 514-A on the following grounds, to wit:

- "1) Gloria A. Ferrer's lack of personality to file and prosecute Civil Case No. 514-A;
- "2) Civil Case 514-A is barred by prior judgment;
- "3) Lack of sufficient averments to constitute a cause of action; and

"4) Civil Case No. 514-A, is a collateral attack on the Free Patent Decree No. 309504 and O.C. of Title No. F-168 (Annex 'B,' pp. 17-21)." (p. 66, Rollo.)

On 07 December 1976, Judge Antonio G. Bautista issued an order (pp. 23-24, Record on Appeal), dismissing petitioner's complaint, ratiocinating, thus?

"This has reference to the Motion to Dismiss filed by the defendants, through counsel. The plaintiff filed an Answer to the Motion to Dismiss also through counsel.

"The subject of the present action for Quieting of Title to Real Property, is covered by Free Patent No. 309504 and Original Certificate of Title No. P-168, in the names of the defendants. However, the plaintiff alleged in her Complaint that said Free Patent and Original Certificate of Title were secured through fraud, etc., on January 24, 1966, for which reason, they are null and void. In view thereof, while the plaintiff filed the present action ostensibly to Quiet Title of her alleged real property, it is in reality for the annulment or revocation of the Free Patent and Original Certificate of Title of the defendants. The observation of the Court is clinched by prayer (a) of the plaintiff's complaint, i.e., 'That Patent Title No. 168 be declared revoked and cancelled as null and void from the Records of the Office of the Register of Deeds of San Fernando, La Union, etc.' Consequently, the present action is untenable because it constitute a collateral or indirect attack on the Free Patent and Original Certificate of Title of the defendants. That is so, because it was held in the case of Samonte, et al. vs. Sambelon, et al., L-12964, February 29, 1960, that like a decree, a Patent cannot be attacked collaterally.

"Furthermore, the plaintiff has no cause of action against the defendants because the Patent title issued in favor of the Fimalos (defendants here) by the Director of Lands is by now already indefeasible due to the lapse of one year following the entry of the decree of registration in the records of the register of deeds (Fimalos vs. Tutaan, No. L-35408, October 27, 1973).

"WHEREFORE, the Court is constrained to order dismissal of the plaintiff's complaint. There is no pronouncement as to damages and costs." (p. 33, Rollo.)

Petitioner's motion for reconsideration was denied by the court in its order of 03 May 1977 (p. 38, Record on Appeal).

Hence this petition.

Petitioner submits the following assignment of errors on the part of respondent judge:

- I. In not finding and declaring that Gloria A. Ferrer has legal personality to prosecute Civil Case No. 514-A;
- II. In not finding and declaring that Civil Case No. 514-A has stated sufficient cause of action;
- III. In not finding and declaring that petitioner Gloria A. Ferrer's title to the land is beclouded by the contrary claim of the private respondents thereto; and
- IV. In outright dismissing Civil Case No. 514-A on the ground of collateral attack on Free Patent Decree No. 309504 being an abuse of judicial discretion and an excess of his jurisdiction. (p. 13, Rollo.)

The petition has merit.

Article 457 of the Civil Code, under which petitioner claims ownership over the disputed parcel of land, provides:

"Art. 457. To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters."

Undoubtedly, plaintiff is the lawful owner of the accretion, she being the registered owner of Lot 1980 which adjoins the alluvial property. Parenthetically, the same finding has also been made by the trial court in Civil Case

No. A-86 (p. 29, Rollo).

Alluvion gives to the owners of lands adjoining the banks of rivers or streams any accretion which is gradually received from the effects of the current of waters (Art. 457, Civil Code; *Tuason vs. Court of Appeals*, 147 SCRA 37; *Cureg vs. IAC*, 177 SCRA 313). The rationale for the rule is to provide some kind of compensation to owners of land continually exposed to the destructive force of water and subjected to various easements (*Agustin vs. IAC*, 187 SCRA 218; *Binalay vs. Manalo*, 195 SCRA 374).

The Director of Lands has no authority to grant a free patent over land that has passed to private ownership and which has thereby ceased to be public land. Any title thus issued or conveyed by him would be null and void (*Tuason vs. Court of Appeals*, 147 SCRA 37). The nullity arises, not from fraud or deceit, but from the fact that the land is no longer under the jurisdiction of the Bureau of Lands, the latter's authority being limited only to lands of public dominion and not those that are privately owned (*Agne vs. Director of Lands*, 181 SCRA 793).

Herein private respondents, therefore, acquired no right or title over the disputed land by virtue of the free patent since at the time it was issued in 1966, it was already private property and not a part of the disposable land of the public domain.

Although, ordinarily, a title becomes incontrovertible one year after it is issued pursuant to a public grant, the rule does not apply when such issuance is null and void. An action to declare the nullity of that void title does not prescribe (*Agne vs. Director of Lands*, *supra*); in fact, it is susceptible to direct, as well as to collateral, attack (*Estoesta, Sr. vs. Court of Appeals*, 179 SCRA 203).

Private respondents contend that an action for reconveyance prescribes in ten years. The ten-year prescriptive period is applicable to an action for reconveyance if, indeed, it is based on an implied or constructive trust. Article 1456 of the Civil Code, upon which a constructive trust can be predicated, cannot be invoked, however, since the public grant and the title correspondingly issued to private respondents that can create that juridical relationship is a patent nullity. Even assuming, nonetheless, that a constructive trust did arise, the running of the prescriptive period is to be deemed interrupted when an action is filed in court (Art. 1155, Civil Code) or, obviously, when one is already there pending.

Here, to recall, the Free Patent was issued on 24 January 1966 and OCT P-168 was transcribed in the Registration Book of La Union on 08 February 1966 (pp. 38-39, Rollo). At that time, Civil Case No. A-86 for reivindicacion between the parties was still pending in court. After Civil Case No. A-86 was dismissed, without prejudice, on 10 February 1976 (p. 32, Rollo), petitioner, on 22 March 1976 (p. 1, Record on Appeal), promptly filed Civil Case No. A-514 (now on appeal in this instance).

Neither can private respondents claim ownership of the disputed property by acquisitive prescription. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years if the adverse possession is with a just title and the possession is in good faith. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, this time without need of title or of good faith. (See Art. 1134, Civil Code.)

Given the settings in this case at bench, the applicable period of acquisitive prescription, if at all, would be thirty years. Even assuming, then, that private respondents were in adverse possession of the property from 1966 when the free patent was obtained, or even at the inception of their alleged adverse possession in 1954 ("Comment on Petition for Review," p. 35, Rollo), that possession, for purposes of acquisitive prescription, was deemed interrupted upon their receipt of summons (Art. 1123, Civil Code) in Civil Case No. A-86 pending since 1965, as well as Civil Case No. A-514 filed in 1976 following the dismissal the month previous of Civil Case No. A-86.

The prescriptive period of prescription may not be held to commence anew during the pendency of said cases.

The instant petition has merely prayed that respondent court be directed to continue hearing Civil Case No. 514-A. We have repeatedly ruled, however, that where the determinative facts are before this Court, and it is in a position to finally resolve the dispute, the expeditious administration of justice will be subserved by the resolution of the case and thereby obviate the needless protracted proceedings consequent to the remand of the case to the trial court (Heirs of Crisanta Almoradie, et al. vs. Court of Appeals, et al., G.R. No. 91385, January 4, 1994; Lianga Bay Logging Co., et al. vs. Court of Appeals, 157 SCRA 357; Escudero vs. Dulay, 158 SCRA 69). Clearly, the records support the finding that herein petitioner is the true owner of the land subject of the free patent issued to private respondents. The court then, in the exercise of its equity jurisdiction, may, instead of remanding the case to the trial court, direct the owner to reconvey the disputed parcel to its lawful owner (Limaza vs. IAC, 182 SCRA 855; Agne vs. Director of Lands, supra). Considering, moreover, the length of time that this case has been pending between the parties, not counting petitioner's original action for reivindicacion in Civil Case No. A-86 filed on 25 November 1956, an order from this Court requiring such reconveyance can certainly be just and warranted.

WHEREFORE, the questioned order of dismissal of the trial court in its Civil Case No. 514-A is REVERSED and SET ASIDE, and judgment is hereby rendered DECLARING petitioner to be the owner of the disputed parcel of land and ORDERING private respondents to reconvey the same to said petitioner. No costs.

SO ORDERED.

Feliciano, J., (Chairman), in the result.

Bidin, Romero, and Melo, JJ., concur.

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