

**PATROCINIA OBAÑANA AND EMILIO OBAÑANA, PETITIONERS, VS.
THE HONORABLE ALEJANDRO R. BONCAROS, DISTRICT JUDGE,
COURT OF FIRST INSTANCE, BRANCH V, OF NEGROS ORIENTAL AND
ZOILO LANT...**

G.R. No. 51921. March 29, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A Petition for Review of the Order of the then Court of First Instance of Negros Oriental, Branch V, dismissing petitioners' Complaint for reconveyance with damages, in Civil Case No. 5094, for lack of cause of action due to petitioners' failure to exhaust administrative remedies.

In his lifetime, Celestino Lantao possessed a parcel of unregistered land with a nipa swamp containing an area of approximately 2944 sq. ms. situated at Caranoche, Sta. Catalina, Negros Oriental, known as Lot No. 73, Pls 790-D. Celestino is the common predecessor-in-interest of the parties. Petitioners brother and sister are the children of his deceased daughter Mauricia, while private respondent is his son. Celestino died shortly before the 2nd World War.

According to petitioners' Complaint, since their grand-father's death, they possessed the western portion of subject property, while private respondent occupied the eastern part; that they had been paying taxes on their portion and enjoying the fruits thereof; that sometime in 1968 they and private respondent went to the Bureau of Lands to have their respective properties titled but they discovered that the area possessed and cultivated by private respondent was inadvertently included in petitioners' Tax Declaration No. 4116; that in view of this discrepancy, they decided to partition the lot into two; that on December 24, 1968, petitioner Patrocinia executed a Deed of Quitclaim whereby she "quit my claim over one-half (½) of said parcel of land x x x in favor of my uncle Zoilo Lantao", and likewise "quit my claim over one-fourth (¼) share of said parcel of land x x x in favor of my brother Emilio Obañana"; that they also agreed to exchange the portions they respectively possessed such that private respondent would take his one-half (½) share from the western portion while plaintiffs would take their share from the eastern portion; that this agreement was graphically indicated in the sketch appearing in the document signed by Patrocinia and approved by private respondent Zoilo Lantao, and by petitioner Emilio; that thereafter petitioners went to their lot to harvest the nipa palms on the eastern portion but to their surprise, they were stopped by private respondent who threatened them with bodily harm and the filing of criminal cases; that they subsequently discovered that private respondent, without their knowledge and consent, had surreptitiously and fraudulently applied for a homestead patent over the whole lot in utter disregard of their rights and ultimately obtained Original Certificate of Title No. FV-9121 on July 18, 1969, also through fraud and misrepresentation; that they were thus compelled to institute on June 25, 1970 the Complaint below for reconveyance of the eastern portion premised on breach of constructive trust by private respondent.

Private respondent answered the Complaint alleging that subject property is his share in his father's estate; that

petitioners had been given their share through their deceased mother; and that he had not given his approval to the Deed of Quitclaim.

Subsequently, upon private respondent's motion, on the grounds that the award of a patent by the Director of Lands is conclusive upon the rights of the parties and that it is said official, not the Trial Court, who has jurisdiction over the controversy; and that there can be no collateral attack on private respondent's title, respondent Judge dismissed the Complaint for lack of cause of action due to petitioners' failure to exhaust administrative remedies. Said the Court:

"In the exercise of his authority, the Director of Lands passes upon the qualification of an applicant for a land grant. This authority is exclusively lodged with the said official. To order the reconveyance of a portion of a parcel of land subject of this litigation would be tantamount to this Court arrogating unto itself a power not granted to it. Worthy of note is the absence of a declaration from the said official that the plaintiffs herein are qualified to acquire public agricultural lands under the Public Land Act as amended.

Likewise, the granting of the reliefs sought by the plaintiffs in their complaint will result in setting aside a decision of an administrative official without giving him an opportunity to correct whatever error he may have committed. Surely the actuation of the plaintiffs is not what is intended by the law. However, under the present state of facts, they are not left without a remedy because the subject certificate of title may still be set aside, but at the instance or with the conformity of the Director of Lands, pursuant to Section 91 of the Public Land Act, as amended."

As petitioners had failed to obtain reconsideration, this Petition was filed.

We reverse. The doctrine requiring prior exhaustion of administrative remedies before recourse to Courts may be had is confined to public lands.[1] It is inapplicable to private lands. A free patent application having been granted in the case at bar and a corresponding certificate of title having been issued, subject property ceased to be part of the public domain and became private property over which the Director of Lands has neither control nor jurisdiction.[2] The land covered thereby assumes the character of registered property in accordance with the provisions of Section 122 of the Land Registration Act and the remedy of the party who has been injured by fraudulent registration is an action for reconveyance.[3] The relief that petitioners seek is the enforcement of a constructive trust in order to obtain a judgment for reconveyance of the land, relying on Article 1456 of the Civil Code, which provides:

"If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

Clearly then, petitioners' cause of action is incapable of administrative resolution.

"Furthermore, should defendant-appellant succeed at the trial in establishing the fraud and breach of trust on the part of plaintiff as his alleged former tenant who allegedly maliciously and in bad faith took undue advantage as defendant's tenant on the land to grab the same from defendant the recent decision of this Court in Miguel vs. Court of Appeals, et al. would entitle defendant, on the principle of enforcement of a constructive trust, to obtain in the case below a judgment for the reconveyance of the land notwithstanding that the Director of Lands and the Register of Deeds have not been made parties to the case. In the said case of Miguel vs. Court of Appeals, this Court held that where the respondent in breach of fiduciary duty and through fraud succeeded in obtaining a sales patent and ultimately an original certificate of title over a parcel of land which was openly and continuously possessed by petitioner in the concept of owner, the respondent could be judicially compelled to reconvey or assign to petitioner the land thus unlawfully and in breach of trust titled by the respondent." [4]

WHEREFORE, judgment is hereby rendered REVERSING and SETTING ASIDE respondent Judge's Order of July 13, 1979 dismissing the complaint, and the Order, dated August 10, 1979, denying reconsideration, and

REMANDING this case for further proceedings to the Regional Trial Court correspond-ing to the former Court of First Instance of Negros Oriental, Branch V. No costs. SO ORDERED.

Plana, Relova, Gutierrez, Jr. and De la Fuente, JJ., concur.

Teehankee, J., (Chairman), on official leave.

[1] Baladjay vs. Castrillo, 1 SCRA 1064 (1961).

[2] Sumail vs. Judge of the CFI of Cotabato, et al., 96 Phil. 946 (1955).

[3] Director of Lands vs. Register of Deeds, 49 O.G. (3) 935; Sec. 55 of ACT No. 496, cited in Roco, et al vs. Gimeda, 104 Phil. 1011 (1958).

[4] L-20707 Agcanas vs. Nagum, 32 SCRA 298, 305-306 (1970).

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