

**RICARDO MAXIMO AND JUAN PATNUGOT, PETITIONERS, VS. COURT OF FIRST INSTANCE OF CAPIZ, BRANCH III, MAMBUSAO, CAPIZ, PRESIDED BY THE HON. OSCAR LEVISTE AND PRIMO ISIDORO, RESPONDENTS.**

*G.R. No. 61113. February 21, 1990*

Ponente: GRIÑO-AQUINO, J.

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**GRIÑO-AQUINO, J.:**

In this petition for certiorari and prohibition, the petitioners assail the orders dated February 27, 1981 and April 29, 1982 in Civil Case No. M-561 of the Court of First Instance of Mambusao, Capiz, denying their motion to dismiss the complaint for annulment of their free patent title to a seven hectare parcel of land in Jamindan, Capiz, on the ground of prescription of the action.

On January 10, 1968, a Free Patent Title No. P-1562 was issued, pursuant to the order of the Director of Lands, to the petitioner Ricardo Maximo, son-in-law of the other petitioner, Juan Patnugot (the original applicant who waived/assigned his rights to the former), for Lot No. 26, Pls-527-D with an area of 76,347 square meters in the Jamindan Public Land Subdivision at Jamindan, Capiz (pp. 31-33, Rollo).

On March 19, 1969, or more than one year after the issuance of the free patent title to the petitioner, Maximo, the private respondent Primo Isidoro, filed a complaint against Maximo, Patnugot, the Director of Lands, and the Secretary of Agriculture and Natural Resources (Civil Case No. M-152) (p. 25, Rollo), for annulment of the free patent title claiming that the land embraced therein is private land and that it is part of a bigger tract of land owned by him which he and his predecessors-in-interest have possessed for more than 30 years; that the free patent was obtained by the defendants through fraud and deceit by using a forged affidavit of quitclaim of the plaintiff; that the land was the subject of prior suits between the parties; that in one of those cases, a decision had been rendered declaring the plaintiff as the lawful possessor of the land; and, that the other case was still pending when the defendants, allegedly by fraud and deceit, applied for and obtained a free patent title to the land.

The Director of Lands, in his answer to the complaint, alleged that "the patentee was found satisfactorily to have complied with all the requirements of law which entitles him to a free patent grant;" that the plaintiff is not the proper party to bring the action for annulment of the free patent as only the Government through the Solicitor General may do so; and, that the action is premature for failure of the plaintiff to exhaust his administrative remedies (pp. 36-37, Rollo).

Maximo and Patnugot, in their answer to the complaint, alleged that Isidoro's affidavit admitting his failure to pay for Lot 26 to Emilio Dalida (the former landholder), and relinquishing his claim thereto, was duly executed by Isidoro; that as a matter of fact, Isidoro had also filed applications for free patent over his own landholdings in Jamindan; that the subject of the forcible entry case between plaintiff and defendants was not Lot 26, but Lot 27; and, that the plaintiff did not exhaust his administrative remedies (pp. 38-44, Rollo).

As Isidoro took no steps to have the case heard for over four (4) years after he filed it on March 19, 1969, the court, on May 14, 1973, *motu proprio* dismissed it without prejudice under Section 3, Rule 17 of the Rules of Court (p. 49, Rollo).

Seven (7) years later, or on January 25, 1980, Isidoro refiled the complaint impleading the Register of Deeds as additional defendant. It was docketed as Civil Case No. M-561 (pp. 17-24, Rollo).

The Solicitor General, as counsel for the public defendants, filed an answer praying for the dismissal of the complaint (pp. 62-67, Rollo). Maximo and Patnugot filed a motion to dismiss on the grounds that:

"I.

THE COMPLAINT STATES NO CAUSE OF ACTION AS THE PLAINTIFF HAS NO PERSONALITY TO FILE THE SUIT

"II.

THE HONORABLE COURT HAS NO JURISDICTION OVER THE NATURE OF THE ACTION OR SUIT

"III.

PLAINTIFF FAILED TO EXHAUST ADMINISTRATIVE REMEDIES

"IV.

PLAINTIFF FAILED TO IMPLEAD INDISPENSABLE PARTIES

"V.

THE PRESENT ACTION IS A SUIT AGAINST THE STATE WITHOUT ITS CONSENT" (p. 50, Rollo.)

It was opposed by the plaintiff (pp. 68-76, Rollo) and denied by the court on February 27, 1981 because the grounds of the motion were, in the court's opinion, "not x x x indubitable" (p. 77, Rollo).

The defendants (now petitioners) filed a motion for reconsideration, where they alleged prescription as an additional ground for the dismissal of the suit (pp. 78-88, Rollo).

The motion was denied by the court on April 29, 1982 (p. 114, Rollo). On July 3, 1982, the defendant sought relief by certiorari in this Court.

Section 104 of the Public Land Act provides:

"SEC. 104. Any owner of uncultivated agricultural land who knowingly permits application for the same to be made to the Government and the land to be tilled and improved by a bona fide grantee without protesting to the Bureau of Lands within one year after cultivation has begun, shall lose all right to the part of the land so cultivated and improved, unless he shall bring action in the proper court before such action for recovery prescribes and obtains favorable judgment therein, in which case the court shall, upon its decision becoming final, order the payment to the grantee, within a reasonable period, of the indemnity fixed by said court for the

cultivation and improvement."

As above provided, the owner may "bring action in the proper court before such action for recovery prescribes." Understandably, one who is not the owner but simply another applicant for a free patent to the same land may not bring an action in court to recover the land for the court may not usurp the authority of the Director of Lands and the Secretary of Agriculture to dispose of lands of the public domain through administrative proceedings under the Public Land Act. It is the Director of Lands, not the court, who has jurisdiction to determine, as between two or more applicants for a free patent, the one who has satisfactorily met the requirements of the law for the issuance of a free patent. The court has no jurisdiction over that matter.

But the court would have jurisdiction over an action of the owner of a piece of land to recover it, if the Director of Lands, thinking that it is still disposable public land, grants a free patent to one who has proved his occupancy and cultivation. In such a case, as provided in Section 104 of the Public Land Act, the owner may bring an action in the proper court to recover it before the period fixed by law for bringing such action prescribes. A rival applicant for a free patent, like respondent Isidoro, is not the "owner" of the land covered by Maximo's free patent. Hence, he may not bring an action in court to recover it or to annul the free patent that had been issued by the Director of Lands to Maximo. An action for annulment of a patent and for reversion of the land to the State may be filed only by the Solicitor General as provided in Section 101 of Com. Act No. 141. Thus did this Court rule in *Lopez vs. Padilla*, 45 SCRA 44, 45:

"Plaintiffs could not properly institute the action for cancellation of defendants' homestead patent No. 112148 and original certificate of title No. 183 issued in pursuance thereof, since the land clearly had ceased to be public land and private ownership thereof had vested in favor of defendants Padillas and their transferee Woolbright. Granting arguendo plaintiffs' allegations of fraud and deceit against defendants and their alleged preferential right under Republic Act 730 to purchase the portions of the homestead lot occupied by them in 1958 — which they insist should be deemed conceded for purposes of the motion to dismiss filed by defendants-appellees — section 101 of the Public Land Act vests only in the Solicitor General or the officer acting in his stead the authority to institute the action on behalf of the Republic for cancellation of defendants' title and for reversion of the homestead to the Government. This Court has recognized as exceptions cases where plaintiff-claimant has sought direct reconveyance from defendant of public land unlawfully and in breach of trust titled by defendant, on the principle of enforcement of a constructive trust, but such principle is in no way applicable or invoked in the case at bar.

"As succinctly held by the lower court, the torrens title issued to defendants in pursuance of the homestead patent is no longer susceptible to collateral attack through the present action filed by plaintiffs, who as mere applicants of revocable lease permits or miscellaneous applications of what is now concededly tiled property of private ownership, have no personality or legal interest in the first place to institute the action, nor to question the sale of the homestead allegedly within the five-year prohibitory period of section 118 of the Public Land Act." (*Lopez vs. Padilla*, 45 SCRA 44, 55.)

As the rival applicant for a free patent over the same land, the remedy of Isidoro is administrative, not judicial, for, as pointed out by this Court in *Lopez vs. Padilla*, supra, even if he succeeds in annulling the title of the petitioner, he does not thereby become the owner of the land (45 SCRA 44, 52).

Furthermore, in *Firmalo vs. Tutaan*, 53 SCRA 505, 509-510, we held that the validity of a patent issued by the Director of Lands may not be inquired into by the courts.

"This brings us to the erroneous notion entertained by the court a quo, presided by the respondent Judge Tutaan, that the remand of the case for trial on the merits warrants an inquiry into the validity of the decree of registration issued by the Director of Lands over the property in dispute. The decision of the Director of Lands may be annulled or reviewed only in a direct proceeding and not collaterally as the respondent judge would

have it in the case at bar. Moreover, the patent title issued in favor of the Fimalos 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 (March 28, 1969 at the latest when the title to the property was issued) in the records of the register of deeds.

"x x x The Fimalos' title is to be respected, given effect, and accorded due recognition unless and until a superior title, if any there be, overtakes the same."

Only on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction by the administrative authority may the aggrieved party seek a judicial review of the administrative decision (Sec. 1, Art. VIII, 1987 Constitution). Such power of review now lies with the Court of Appeals under its vast power of review over decisions of quasi-judicial bodies under Section 19, Subpar. (3), B.P. Blg. 129 (DBP vs. Court of Appeals, et al., G.R. No. 86625, December 22, 1989).

In view of the foregoing, it is unnecessary to discuss the other issues raised in the petition. As the court a quo has no jurisdiction over the action to annul Maximo's free patent title in Civil Case No. M-561, it gravely abused its discretion in denying the petitioners' motion to dismiss the same.

WHEREFORE, the petition for certiorari is granted. The order of the trial court dated February 27, 1981 in Civil Case No. M-561 is hereby set aside. The complaint in Civil Case No. M-561 is hereby dismissed. Costs against the private respondent.

**SO ORDERED.**

Narvasa, (Chairman), Cruz, and Gancayco, JJ., concur.  
Medialdea, J., on leave.

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