

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MINDA DE PORKAN, SADIN MARAUG, GORGONIO BERMUDEZ, LOLITA MACATINDOG, MEDORI DE PORKAN, JUAN ARANGALI, ANTONINA ESTARES, REGISTER OF ...

G.R. No. 66866. June 18, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

In this petition for review on certiorari, petitioner Republic of the Philippines, represented by the Director of Lands, thru the Solicitor General, seeks the reversal of the decision[1] of the Intermediate Appellate Court, now Court of Appeals, dated February 29, 1984, which affirmed the joint decision[2] of the then Court of First Instance of Davao, Branch I [Tagum] dismissing petitioner's complaint in Civil Cases Nos. 1247 and 1248 for cancellation of the Homestead Patent of private respondent Minda de Porkan and her successors-in-interest and the Free Patent of private respondent Lolita Macatindog and her successors-in-interest, respectively.

The undisputed facts appearing on the records are as follows:

The family of Sadin de Porkan, father of Medori and Macampon de Porkan, both native Muslims of La Paz, Carmen, [formerly Panabo] Davao del Norte, had been in actual possession as owner since the Spanish colonial period of a tract of land planted with coconuts situated in said municipality.[3] During the Tagum Cadastral Survey of July 22, 1937, this tract of land, identified as Lots Nos. 1099 and 1546 were respectively allocated to Medori and Macampon de Porkan, the predecessors-in-interest of herein private respondents.[4]

On April 30, 1953, or sixteen [16] years after the Tagum Cadastral Survey, Medori de Porkan filed her Free Patent Application No. V-27162[5] over Lot No. 1099 containing an area of 16.2983 hectares. The following day, or on May 1, 1953, Vicente J. Villena, Junior Public Lands Inspector, submitted a final investigation report[6] recommending that the patent be granted to Medori de Porkan. The report was subsequently endorsed for approval to the Director of Lands on May 30, 1953 by Juan Tapales, Head, Special Investigation Party, Davao, who recommended that the entry of applicant be favorably confirmed and a free patent be issued to Medori de Porkan, thus:

“9. That the said land has been surveyed, and the survey records are known as Tagum Cad., Survey No. 25-B. It corresponds to Lots 1099, B.L. Case No. 4, Cadastral Record No. 276 which was allocated to the herein applicant, Medori de Porkan during the cadastral survey of Tagum.

“10. FURTHER REMARKS: Due to the long possession and occupation by Medori de Porkan of the land, who also introduced considerable improvements thereon the undersigned believed beyond reasonable doubt that she is entitled to a free patent. Information gathered from other persons, settlers and homesteaders in the vicinity reveals that no other persons had been allowed to have any interests in, rights to, the improvements now existing therein. Records show that the land applied for was allocated to the herein application (sic) during the cadastral survey of Tagum, but the said applicant has not filed any application for the land.”

Fifteen [15] years after, or on November 12, 1968, Medori de Porkan relinquished her rights and interests over Lot No. 1099[7] to her daughter, Lolita Macatindog, who thereafter filed her own free patent application[8] on November 14, 1968. The Free Patent Application No. V-271162 of Medori de Porkan covering Lot No. 1099 was thereafter ordered trans-ferred to, recorded and given due course in the name of Lolita Macatindog in an order dated February 8, 1971.[9] On May 27, 1971, the Director of lands approved the Free Patent Application of Lolita Maca-tindog and ordered that the said application be en-tered in the records of the Bureau of Lands as Free Patent Entry No. 431343 and that the corresponding Free Patent be issued in her favor over Lot No. 1099.[10] Free Patent No. 488112 was issued to Lolita Maca-tindog on June 7, 1971, and on July 13, 1971, she was issued Original Certificate of Title No. P--9742[11] over said Lot No. 1099.

On June 6, 1978, or after seven [7] years from the issuance of the Free Patent, Lolita Macatindog conveyed 60,000 sq. meters of said Lot No. 1099 to Juan Arangali who secured Transfer Certificate of Title No. T-25142[12] over said area. Transfer Certificate of Title T-25143[13] was issued for the remaining 102,983 sq. meters in the name of Lolita Macatindog.

On the other hand, Macampon de Porkan died before he could file any application and improve Lot No. 1546 containing area of 15.2406 hectares allocated to him. In his stead, the Homestead Application No. V-76456[14] of Sadin Maraуг, who showed much interest in acquiring said tract of land, was accepted on May 1, 1953 on the basis of the investi-gation report[15] of Vicente J. Villena, Junior Pub-lic lands Inspector, dated May 1, 1953, which was favorably endorsed by Juan Tapales, Head, Special Investigation Party, Davao, on May 31, 1953. Sadin Maraуг's homestead application was subsequently approved and recorded as Homestead Entry No. V-68302[16] in an order dated January 13, 1954 issued by Zoilo Castrillo, Director of lands.

On June 1, 1971, or seventeen [17] years after the approval of his homestead application, Sadin Maraуг sought authority from the Director of Lands to transfer his rights over Lot No. 1546, and on June 8, 1971, he executed a transfer of homestead rights in favor of Minda de Porkan. This was approved by Vicente A. Valdellon, Director of Lands, in an order dated December 3, 1971, which likewise ordered that the Homestead Application No. V-76456 of Sadin Maraуг be recorded in the name of the trans-feree, Minda de Porkan.[17]

Minda de Porkan thereafter filed her Homestead Application No. V-76456.[18] After she made a final proof on July 8, 1971, she was issued Homestead Patent No. 135029 approved by the Secretary of Agriculture and Natural Resources on December 8, 1971. On March 17, 1972, she was issued Original Certificate of Title No. P-10095[19] over Lot No. 1546.

In 1977, or after six [6] years from the issuance of the homestead patent, Minda de Porkan conveyed 80,000 sq. meters of Lot No. 1546 to Gorgonio S. Bermudez who secured his Transfer Cer-tificate of Title No. T-23598[20] on September 26, 1977. Transfer Certificate No. T-23599[21] was issued in the name of Minda de Porkan for the remaining 72,406 sq. meters.

Meanwhile, Mrs. Viola C. Azurin, a resident of 629 Sta. Ana Avenue, Davao City, obtained from the then Philippine Fisheries Commission on March 4, 1966, Ordinary Fishpond Permit No. F-5551-V[22] covering an area of 20 hectares situated at La Paz, Panabo [now Carmen], Davao del Norte, described and indi-cated in the sketch on the sheet[23] attached to permit, subject to the additional rules on the next page[24] and, among others, to the following terms and conditions:

“4. Upon the expiration of the permit or upon its cancellation, all permanent improvements on the area shall pass to the ownership the Government without any obligation on the part of said Government to indemnify or reimburse the holder of the permit therefor.

“5. The decision of the commissioner of Fisheries as to the exact location of the boundary lines of the area

shall be accepted as final.

“This permit will expire on December 31, 1966 or at an earlier date under the conditions stated in Rules 10, 11 and 12 hereof”.

Thereafter, Viola C. Azurin had the area surveyed by Geodetic Engineer Roman F. Joaquin, a private surveyor, who found out that her fishpond permit actually covered 33.6586 hectares, and not 20.0 hectares.[25] On November 29, 1967, Geodetic Engineer R. F. Joaquin prepared and submitted for approval by the Director of Lands the allegedly corrected plan of the land [fishpond][26] but the same was not approved by the Director of Lands.

On January 17, 1968, the spouses Condi Mama and Cadingaga Mora, both native Muslims of La Paz, Panabo [Carmen], Davao del Norte, sold to Viola C. Azurin, their rights and interests over all the nipa plants and improvements in the parcel of land covered by Viola C. Azurin's Fishpond Permit No. F-5551-V for and in consideration of P3,500.00.[27]

On March 1, 1968, Viola C. Azurin filed with the Bureau of lands a sales application[28] over an agricultural land to be used solely for agricultural purposes, containing an area of 33.6586 hectares, bounded on the northeast by Tagum River and on the southwest by public land, situated at La Paz, Panabo [now Carmen], Davao del Norte, for which purpose she stated that she would invest the sum of P20,000.00. Prior to the said sales application, she asked the Director of Lands, in a survey re-quest dated February 12, 1968, to have a private surveyor, Geodetic Engineer Roman F. Joaquin, sur-vey the 33.6586 hectares allegedly covered by her sales application, but she agreed that she would take only such title as may be issued to her by the Director of Lands irrespective of the result of the survey of the area which was allegedly occupied by her under Ordinary Fishpond Permit No. F-5551-V.

The sales application of Viola C. Azurin over the alleged 33.6586 hectares was not approved by the Director of Lands.[29]

On April 24, 1969, Viola C. Azurin filed Fishpond Application No. 27257 over 13.6586 hectares allegedly representing the excess area over the 20 hectares under her Fishpond Permit No. F-5551-V which, as found by Geodetic Engineer Roman F. Joaquin, actually covered 33.6586 hectares. Before her appli-cation over the said 13.6586 hectares was filed, a certain Moonyeen Rodriguez-Beleno filed on April 20, 1969 a protest with the Philippine Fisheries Commis-sion against Viola Azurin's fishpond permit claiming that the latter had not improved the area under her permit; that it was she [Beleno] who was in actual possession and occupation of the area and who had introduced improvements thereon, and that she en-tered the area in good faith since the area was heavily forested with mangroves.[30]

The Philippine Fisheries Commission directed an investigation to verify the allegations of Moonyeen Rodriguez-Beleno.

On September 29, 1969, Moonyeen R. Beleno filed Fishpond Application No. 27649 over 35.5 hectares stated to represent the 20 hectares under Viola C. Azurin's Fishpond Permit No. F-5551-V and the 13.5 hectares excess of said permit.[31]

On November 26, 1969, the Philippine Fisheries Commissioner ordered the Regional Director at Davao City to investigate the conflict of fish-pond applications between Viola C. Azurin and Moonyeen R. Beleno over an area reportedly containing 13.6586 hectares, entitled "Fishpond Application No. 27649, Beleno, Moonyeen Rodriguez, Applicant-Complainant versus Fishpond Application No. 27257, Azurin Viola C., Permittee." [32]

On May 26, 1972, while the fishpond conflict case was pending investigation by the Philippine Fisheries

Commission [Davao City], Viola C. Azurin filed with the Bureau of Lands a complaint[33] for the correction, amendment or cancellation of Home-stead Patent No. 135029 of Minda de Porkan over Lot No. 1546 and Free Patent No. 488112 of Lolita Maca-tindog over Lot No. 1099 situated at La Paz, Panabo [now Carmen], Davao del Norte, alleging, among others, that the patentees secured their patents and titles through fraud, misrepresentation and illegal machinations, after which a relocation survey of their lots was made, and on April 24, 1972, Minda de Porkan forcibly entered the northeastern portion of her [Azurin] landholding while Lolita Macatindog likewise forcibly entered the south-eastern portion of the same landholding.[34]

After an investigation, Acting Assistant District Land Officer Lazaro G. Berania recommended in his findings dated July 9, 1973[35] that a petition be filed in the proper court for the amendment of Homestead Patent No. 135029 of Minda de Porkan over Lot No. 1546, Cad. 276 and Free Patent No. 488112 of Lolita Macatindog over Lot No. 1099, Cad. 276 in order to exclude therefrom the portion of around seven [7] hectares of Viola C. Azurin and that the Land Inspector, Mr. Amer Yusop, be charged administratively for gross negligence and grave misconduct for submitting false report.

Meanwhile, on January 10, 1978, the Director of Fisheries issued an order resolving the conflict of the fishpond applications between Viola C. Azurin [FpA No. 27257] and Moonyeen R. Beleno [FpA No. 27649] over 13.6586 hectares which, for the purpose of identifying the disputed land involved in the instant case, We quote, thus:

“Considering the actuations of both parties in this case and of the fact that there is considerable difficulty in distinguishing the excess area from the area of 20.0 hectares granted under Permit No. F-5551-V owing to the absence of hearings in the technical descriptions of the area as released by the Bureau of Forestry, it is only proper, for the sake of justice and equity, that the claims of the parties herein be resolved by taking into consideration the actual conditions existing at the time the controversy arose and also to consider the principle that no one shall unjustly enrich himself at the expense of another.

“Moreover, in a more recent ocular inspection and/or relocation of the area involved in the above-entitled case conducted by representatives of this Office based on the sketch plan prepared by Fortunato I. Javellana, Jr., Geodetic Engineer of Fisheries Regional Office No. XI, Davao City, the three [3] parcels of areas appears thereon, thus

“Parcel I – consisting of 6.1010 hectares and is bounded on the North by Parcel II and a portion of Parcel III on the East of Tagum River; on the South by the junction of Tagum and Taganay rivers; and on the West by portion of the Parcel III along the irrigation canal;

“Parcel II – consisting of 11.7869 hectares and is bounded on the North by Tagum River; on the East by Tagum River; on the South by Parcel I; and on the West by portion of Parcel III; and

“Parcel III – consisting of 16.5655 hectares and is bounded on the North by the Tagum River; on the East by Parcels I and II; on the South by Mangrove area; and on the West by Agricultural land.

“Said verification further disclose that Parcel 1 is a developed portion of the fishpond area and is outside of the present conflicts. Parcel II was also found to be developed and is the portion that Beleno claimed to have introduced her improvements. Parcel III was found to be undeveloped and is the subject of the land title claim of the De Porkans. Records also show that the representatives of Viola C. Azurin also informed the investigators that 60 to 70% of the area in Parcel III is presently involved in the land title conflict with the De Porkans and that there is a pending case with the Bureau of Lands on this matter. However, with respect to Parcel II, the representatives Mrs. Azurin assured them, that it is outside of the land title conflict with the De Porkans, hence, resolution on the instant controversy is believed well-taken.

"IN VIEW OF THE FOREGOING, FpA. No. 27649 of Moonyeen R. Beleno be given due course to cover Parcel II as indicated in the sketch plan prepared by Engineer Fortunato P. Javellana covering 11.7869 hectares

and wherein her improvements are indicated; and that the area of Mrs. Viola C. Azurin under OFP No. F-5551-V shall be confined to Parcels Nos. I and III of said sketch, after the adverse claims of the Muslim claimants shall have been finally resolved by competent authority." [36]

The aforequoted order of the Director of Fisheries giving due course to the Fishpond Application No. 27649 of Moonyeen R. Beleno over Parcel II covering 11.7869 hectares was appealed by Viola C. Azurin to the Minister of Natural Resources.

On April 11, 1980, the Republic of the Philippines, represented by the Director of Lands, thru the Solicitor General, filed two [2] separate complaints [37] with the then Court of First Instance of Davao del Norte, seeking the cancellation in Civil Case No. 1247 of Homestead Patent No. 135029 of Minda de Porkan and its derivative titles, TCT No. T-23598 and T-23599, in the names of Minda de Porkan and spouses Gorgonio S. Bermudez and Benecita Duluan Bermudez insofar as the portion covered by the Ordinary Fishpond Permit No. F-5551-V of Viola C. Azurin, with an area of 3.9 hectares, more or less [subject to the result of a final survey] was concerned; and the cancellation in Civil Case No. 1248 of Free Patent No. V-488112 and OCT No. P-8742 in the name of Lolita Macatindog and its derivative titles, TCT Nos. T-25143 and T-25142 in the names of Lolita Macatindog and the spouses Juan Arangali and Antonina Estares, respectively, insofar as the portion covered by Fishpond Permit No. F-5551-V of Viola C. Azurin, with an area of seven [7] hectares, more or less [subject to the result of a final survey] was concerned.

The Solicitor General claimed that the disputed portions of land in Civil Cases Nos. 1247 and 1248 were actually claimed, occupied and developed by Viola C. Azurin, a holder of Fishpond Permit No. F-5551-V, which portion the Director of Lands could not dispose of under the Public Land Act [38] hence, the patents and titles issued to Minda de Porkan and Lolita Macatindog and all derivative titles issued to their successors-in-interest are null and void insofar as that portion occupied and covered by the fishpond permit of Viola C. Azurin.

Minda de Porkan, et al. in Civil Case No. 1247 and Lolita Macatindog in Civil Case No. 1248 similarly claimed in their separate answers [39] that they were the ones who first protested, along with their Muslim relatives, the intrusion of the families of the Azurins, Rodriguezes, and Belenos into their "ancestral lands," now the site of Barrio La Paz, Carmen [formerly Panabo], Davao del Norte, which from time immemorial had been occupied and cultivated by their ancestors and predecessors-in-interest.

Upon motion of the Solicitor General for consolidation of cases, Civil Cases Nos. 1247 and 1248 were ordered consolidated in an order [40] dated August 19, 1980 issued by the then Court of First Instance, Branch II, Davao del Norte for joint hearing in the Court of First Instance of Davao del Norte, Branch I.

After a joint hearing, the Court of First Instance of Davao del Norte, Branch [Tagum] rendered its decision [41] on November 18, 1980 dismissing the complaints for cancellation of titles and upholding the validity of the patents/titles of Lolita Macatindog and Minda de Porkan, as well as the titles of their transferees co-defendants Juan Arangali and Gorgonio Bermudez, who were adjudged to be innocent purchasers for value and in good faith.

The Solicitor General appealed the decision of the lower court to the then Intermediate Appellate Court, now Court of Appeals.

In the meantime, on March 31, 1981, the Minister of Natural Resources, thru his Acting Assistant Secretary, Jose A. Janolo, rendered a decision [42] setting aside the order of the Director of Fisheries and Aquatic Resources dated January 10, 1978, thereby rejecting the Fishpond Application No. 27649 of Moonyeen R. Beleno, and declaring, among others, that the Ordinary Fishpond Permit No. F-5551-V of Viola C. Azurin should cover Parcels I, II and III subject to the final resolution by competent authorities of the adverse claims of certain Muslim occupants over parcel III. [Underscoring supplied]

On February 29, 1984, the Intermediate Appellate Court, now Court of Appeals, affirmed the decision of the lower court.

The Solicitor General thus elevated the case to this Court by way of petition for review on certiorari raising eleven [11] errors which, in its entirety, seeks to cancel and declare as null and void the titles of private respondents over Lot No. 1099, Cad. 276 and Lot No. 1546, Cad. 276, and their eventual reversion to the State without prejudice to the claim of Viola C. Azurin to a portion of seven [7] hectares of Lot No. 1099 and a portion of 3.9 hectares of Lot No. 1546 under her Fishpond Permit No. F-5551-V.[43] In other words, the Solicitor General seeks to cancel and declare as null and void the titles of private respondents over Lot Nos. 1099 and 1546, but he takes exception to the eventual reversion of the entire area of the two [2] disputed lots to the State insofar as 10.9 hectares, more or less, in favor of the claim of Viola C. Azurin under Fishpond Permit No. F-5551-V.

In the main, the cancellation of titles of private respondents over the disputed two [2] lots and their eventual reversion to the State primarily rests on the contentions of the Solicitor General that Lot Nos. 1099 and 1546 could not be the subject of disposition under the Homestead [Chapter IV] and Free Patent [Chapter VII] provisions of the Public Land Act[44] since they are marshy and swampy, certified as such as more suitable for fishpond development, disposable only thru lease under Chapter IX of the Public Land, and private respondents' non-compliance with certain statutory requirements of possession and cultivation, and the disqualification of applicant Minda de Porkan to apply for a homestead patent, she being a married woman. On the other hand, the argument on retention of 10.9 hectares in favor of the fishpond claim of Viola C. Azurin in the event that the titles of private respondents are declared null and void is predicated on the assumption that Viola C. Azurin's Fishpond Application No. 27257 filed on April 24, 1969 over the alleged excess area of 13.6586 hectares over her 20-hectare fishpond under her Fishpond Permit No. F-5551-V was, in fact, granted by the Bureau of Fisheries and Aquatic Resources of the Ministry of Natural Resources. And on the basis of said assumption the Solicitor General then contended that despite the presence of other claimants in the area, Amer Yusop, a public land inspector of the Bureau of Lands, misled the Director of Lands into erroneously approving private respondents' application and causing the fraudulent issuance of patents in their favor by stating in report that "there are no claimants" to the land applied for by Minda de Porkan and that the land applied for by Lolita Macatindog "is claimed by nobody."

At the outset, it is significant to note that the tract of public land then possessed, occupied, developed and planted to coconuts by the family of Sadin de Porkan and his predecessors-in-interest, all native Muslims of La Paz, Carmen [formerly Panabo], Davao del Norte, which, by virtue of its being part of the unregistered lands, was included in the Tagum Cadastral Survey of July 22, 1937 and formed part of the disposable or alienable agricultural lands of the public domain referred to under Section 6, par. [a] in relation to Section 9, par.[a] of the Public Land Act [C.A. 141, as amended]. The nature and character of said tract of public land, more particularly Lot No. 1099, as one found inside an "agricultural zone", and that of Lot No. 1546, as one suitable for rice cultivation, which were categorically stated in the separate investigation reports in 1953 of Vicente J. Villena, junior public land inspector of the Bureau of Lands [Davao] is binding on the courts inasmuch as it is the exclusive prerogative of the Executive Department of the Government to classify public lands.[45] The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like.[46] This Court, speaking thru Justice Moir, in the case of *Jocson vs. Director of Forestry*, 39 Phil. 560 [1919], traced the meaning of public agricultural lands, and the same was restated 29 years later in *Krivenko vs. Register of Deeds of Manila*, 79 Phil. 461 [1948] thus:

"In the case of *Mapa vs. Insular Government*, 10 Phil. 175, this court said that the phrase 'agricultural lands' as used in Act No. 926 means those public lands acquired from Spain which are not timber or mineral. Whatever may have been the meaning of the term 'forestry' under the Spanish law, the Act of Congress of July 1st, 1902,

classifies the public lands in the Philippine Islands as timber, mineral or agricultural lands, and all public lands that are not timber or mineral lands are necessarily agricultural lands, whether they are used as nipa swamps, manglares, fisheries or ordinary farm lands." [underscoring supplied.]

Since the disputed tract of public land is neither timber nor mineral lands, the same is alien-able or open to disposition as public agricultural lands, under Section 11, C.A. 141 thru homestead settlement or free patent.

The basic preliminary issue in resolving the overlapping claims over the 10.9 hectares is whether or not the predecessors-in-interest of private respondents Minda de Porkan, et al. in Civil Case No. 1247 and Lolita Macatindog, et al. in Civil Case No. 1248 had acquired valid and re-gistrable titles over Lot No. 1099 and 1546, respectively, by virtue of a grant by the State under the Public Land Act.[47]

We rule in the affirmative.

The doctrine established in the 1909 case of *Carino vs. Insular Government*, 42 Phil. 935, 944, affirmed in *Susi vs. Razon*, 48 Phil. 424, and re-affirmed in a number of cases[48] the most re-cent of which are the cases of *Herico vs. Dar*, 95 SCRA 437 and *Director of Lands vs. Intermediate Appellate Court and Acme Plywood and Veneer Co., Inc.*, G.R. No. 73002 [Dec. 29, 1986] sustains on all fours the ruling of the trial court that the herein private respondent Lolita de Porkan Maca-tindog and her predecessors-in-interest, as early as 1953, had already acquired by operation of law not only a right to a grant over Lot No. 1099, but a grant of the Government over the same alienable land by virtue of their proven, open, exclusive and undisputed possession for more than 30 years since the Spanish colonial period.

The case of *Susi vs. Razon*, supra, in particular, puts the doctrine in a clearer and more pre-cise language which militates against the belated theory of the Solicitor General after a period of 19 years since 1953 that in view of its being swampy and marshy in nature, Lot No. 1099 is still public land which the Director of Lands could not dispose of under the Public Land Act, thus:

"x x x In favor of Valentin Susi, there is, moreover, the presumption juris et de jure established in paragraph [b] of section 45 of Act No. 2874, amending Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the public domain openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions Chapter VIII of said Act. So that when Angela Razon applied for a grant in her favor, Valentin Susi had already acquired, by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title should be issued in order that said grant may be sanctioned by the courts, an application therefore is sufficient, under the provisions section 47 of Act No. 2874. If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain and had become private property, at least presumption, of Valentin Susi, beyond the control of the Director of Lands. Consequently, in selling the land in question to Angela Razon, the Director of Lands disposed of a land over which he had no longer any title or control, and the sale thus made was void and of no effect, and Angela Razon did not thereby acquire any right." [Underscoring supplied]

Where, as in the instant case, the possession of a public land later identified as Lot No. 1099 by Sadin de Porkan, father of Medori de Porkan, and their predecessors-in-interest who were native Muslims of La Paz, Panabo [now Carmen], Davao del Norte, dates back to the time of the Spanish colonial period, such possession of the said tract of public land has attained the character and duration prescribed by law as the equivalent of an express grant from the Government. The mandate of the law itself is that the possessors "shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title" and by legal fiction, the land ceases to be public and thus becomes private land. In the language of *Herico vs. Dar*, supra,

title over the land was vested on the pos-sessor so as to segregate the land from the mass of the public domain. And as stressed in *Susi vs. Razon*, supra, it is not necessary that a certifi-cate of title should be issued in order that said grant may be sustained by the courts, an applica-tion therefor being sufficient.

On the other hand, as regards the homestead patent over Lot No. 1546, Cad. 276, the ruling in the case of *Balboa vs. Farrales*, 51 Phil. 498 [1928], that when a homesteader has complied with all the terms and conditions which entitle him to a patent for a particular tract of public land, he acquires a vested interest therein, and is to be regarded as the equit-able owner thereof, and once the right to a patent has become vested in a purchaser of public lands, it is equivalent to a patent actually issued, sustains, the conclusion of the trial court that a tract of public land later identified as Lot No. 1546 ceased to be part of the public domain and became private land over which the Director of Lands is divested of control and possession when the homestead application of Sadin Maraуг was approved and recorded as Home-stead Entry No. V-68362 on January 13, 1954 which was later confirmed by the approval of the transfer of homestead rights in favor of Minda de Porkan. The Court stated in *Balboa vs. Farrales*, supra, thus:

"A party who has complied with all the terms and conditions which entitle him to a patent or a particular tract of public land acquires a vested interest therein, and is to be regarded as the equitable owner thereof [*Wirth vs. Branson*, 98 U.S. 118]. Where the right to a patent has once become vested in a purchaser public lands, it is equivalent, so far as the Government is concerned, to a patent actually issued. The execution and delivery of the patent after the right to it has become complete are mere ministerial acts of the officers charged with that duty [*Simmons vs. Wagner*, 101 U.S. 260]. x x x A perfected valid appropriation public lands operates as a withdrawal of the tract from the body the public domain and, so long as such appropriation remains valid and subsisting, the land covered thereby is deemed private property. A perfected homestead, under the law, is property in the highest sense, which may be sold and conveyed and will pass descent. xxxx Even without a patent, a perfected homestead property right in the fullest sense, unaffected by the fact that the paramount title to the lands in the Government. Such land may be conveyed or inherited." [underscoring supplied]

Corollary to the ruling in *Balboa vs. Farrales*, it was held in *Diaz and Reyes vs. Maca-linao*, et al., 102 Phil. 999, a 1958 case, that a homestead entry having been permitted by the Director of Lands, the homestead is segregated from the public domain and the Director Lands is divested of the control and possession thereof except if the application is finally disapproved and the entry annulled or revoked. In *Dauan vs. Secretary of Agriculture and Natural Resources*, 19 SCRA 223, involving a dis-pute as to whether a pre-war homestead application was approved by the Director of Lands, the Court held that where the person had all the qualifications to apply for a homestead and he was in actual posses-sion of the homestead at the time he transferred his rights thereto, the presumption is that his appli-cation for said homestead was approved by the Director of Lands.

In that sense, there is then no legal obstacle for Lolita de Porkan Macatindog, successor-in-interest of Medori de Porkan, to complete the imperfect or incomplete title of her predecessor-in-interest over Lot No. 1099 by means of confirmation of imperfect or incomplete title by administrative legalization [free patent] under Section 11 and Section 44 of the Public land Act, as amended by R.A. 3872 [June 18, 1964][49] which she did when she filed her free patent application on November 14, 1968; and for Minda de Porkan to confirm her title over Lot No. 1546 which was deemed vested on her predecessor-in-interest, Sadin Maraуг, as early as 1954, by filing her homestead application on June 8, 1971. In both parcels of land, the application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens Title to be issued upon the strength of said patent.[50]

There is therefore no equitable justifica-tion for the Director of Lands to divest private res-pondents of their titles by claiming, after 19 years that the lots in question remain public lands because the same are swampy and marshy in nature subject to lease only under Chapter IX of the Public Land Act, and on a mere technical objection that

Minda de Porkan is disqualified to apply for a homestead patent because she is married. As clearly found by the trial court, Viola C. Azurin entered the 20-hectare fish-pond in 1966 and, admittedly, she excavated and constructed dikes in the disputed portion she assertively believed to be within her 20-hectare fishpond permit. The conversion of the disputed portion into a fishpond will not change the agri-cultural nature of the land subject to disposition by the Bureau of Lands as alienable lands of the public domain in accordance with the State policy of "land for the landless"; and more importantly in line with the amendments introduced by Republic Act No. 3872 [June 18, 1964] to the Public Land Act intended to benefit the members of the national cultural minorities. In fact, the original registered owners of Lot No. 1099 and Lot No. 1546 were issued their respective patents pursuant to the 1971 Land Patent Drive for Cultural Minorities signed by Vicente A. Valdellon.[51]

Inasmuch as Lot No. 1099 and Lot No. 1546 ceased to be part of the public domain as early as 1953 and 1954, respectively, We need not dwell further on the allegations of fraud advanced by the Solicitor General in the issuance of the patents of Lolita Macatindog and Minda de Porkan who were the successors-in-interest of Medori de Porkan and Sadin Maraog whose titles to the lots in question become vested by operation of law and by the equitable application of doctrinal jurisprudence on the land dispute in the instant case.

The next issue then is whether or not the fishpond claim of Viola C. Azurin over the 13.6586 hectares allegedly representing the excess area over her 20-hectare fishpond under her Fishpond Permit No. F-5551-V has attained the character of a final grant from the Government as would warrant the exclusion of the same from Lot No. 1099 of Lolita Macatindog and Lot No. 1546 of Minda de Porkan.

We rule in the negative.

A review of the records of the case show that Viola C. Azurin has not sufficiently established her right to a grant by the Government under any of the modes of dispossession or concession of public lands authorized under the Public Land Act or any special law governing her alleged fishpond claim over the disputed lots. The inaction, if not disapproval, of her land claims over the disputed lots, through applications separate and distinct from each other, by the concerned administrative agencies of the Government renders untenable the Solicitor General's contention that in the event Lot No. 1099 and Lot No. 1546 are finally reverted to the State, the said 13.6586 hectares should be excluded from the reversion in favor of the fishpond claim of Viola C. Azurin under her Fishpond Permit No. F-5551-V.

First, it must be noted that on January 17, 1968, Viola C. Azurin obtained by purchase and sale from Condi Mama and Cadingaga Mora, both native Muslims of La Paz, Panabo [now Carmen], Davao del Norte, all the rights and interests over all the nipa plants and other improvements in the parcel of land covered by her Fishpond Permit No. F-5551-V.[52] Thereafter, on March 1, 1968, she filed with the Bureau of Lands a sales application[53] over an agricultural land with an area of 33.6586 hectares allegedly covered by her 20-hectare fishpond permit. But the sales application was not approved by the Director of Lands.

Second, after Viola C. Azurin was granted on March 4, 1966 her Fishpond Permit No. F-5551-V by the Philippine Fisheries Commission, she had the area surveyed by a private land surveyor, Roman F. Joaquin, who allegedly found out that her fishpond permit actually covered 33.6586 hectares, resulting in an excess of 13.6586 hectares. On November 29, 1967, Roman F. Joaquin submitted a plan of the land [fish-pond], allegedly the correct plan of the survey, but the Director of Lands did not approve the same. So Viola C. Azurin opted to file a fishpond application [FpA No. 27257] on April 24, 1969 over the excess area of 13.6586 hectares over her 20-hectare fishpond under her Fishpond Permit No. F-5551-V. A protest over Azurin's application was filed earlier or on April 20, 1969 by a certain Moonyeen Rodriguez--Beleno which was decided by the Director of Fisheries on January 10, 1978 by giving due course to the fish-pond application of Moonyeen R. Beleno over Parcel II.

However, on March 31, 1981, the Minister of Natural Resources, thru his Acting Secretary, Jose A. Janolo set aside the order by declaring that the Fishpond Permit No. F-5551-V of Viola C. Azurin covers Par-cel I, II, and III subject to the final resolution by competent authorities of the adverse claim of certain Muslim occupants over Parcel III. In other words, Viola C. Azurin's claim over Parcel III has not attained the status of finality unless and until the conflict of land claims, now subject of the instant case, is finally resolved by the courts.

Third, the instant case now before this Court for review is an offshoot of Viola C. Azurin's complaint for correction, amendment or cancellation of the Homestead Patent of Minda de Porkan and Free Patent of Lolita Macatindog filed with the Bureau of Lands on May 26, 1972 involving the same portion of land subject of the sales application filed on March 1, 1968 and fishpond application filed on April 24, 1969 by Viola C. Azurin.

Fourth, the Fishpond Permit No. F-5551-V of Viola C. Azurin had technically expired on December 31, 1966. Obviously, recognizing the extent and limits of her occupation, use and possession of the fishpond area, she filed the said sales application over the same area on March 1, 1968, but said application was not approved.

Considering that Viola C. Azurin was not able to legitimize her claim over the disputed portion, there is then no justifiable reason for the Director of Lands to divest Lolita Macatindog and Minda de Porkan and their successors-in-interest of their titles, which had long been vested on their predecessors-in-interest.

WHEREFORE, in view of the foregoing, the petition is denied and the decision of the Court of Appeals on February 29, 1984 is hereby affirmed. No costs.

SO ORDERED.

Gutierrez, Jr., Paras, Padilla, and Cortes, JJ., concur.

Bidin, J., no part. I participated in the appellate court's decision.

[1] Penned by Justice Desiderio Jurado, concurred in by Justice Porfirio V. Sison, Marcelino R. Veloso and Abdulwahid A. Bidin. Annex "F", Petition, pp. 96-117, Rollo

[2] Annex "E", Petition, pp. 83-95, Rollo

[3] Joint Decision, CFI, Davao, p. 85, Rollo

[4] Ibid, p. 83, Rollo

[5] Exhibit "A"

[6] Exhibit 12

[7] Exhibit 10

[8] Exhibit 8 or "A-1"

[9] Exhibit 4

[10] Exhibit 2

[11] Exhibit "F"

[12] Exhibit "F-1"

[13] Exhibit "F-2"

[14] Exhibit "A" de Porkan

[15] Exhibit 18-A

[16] Exhibit "B"

[17] Exhibit "C"

[18] Exhibit "D"

[19] Exhibit "E"

[20] Exhibit "F"

[21] Exhibit "G"

[22] Exhibit "E"

[23] The attached sheet was not presented as evidence at the trial, see Joint Decision, CFI of Davao, p. 85, Rollo

[24] The page referred to was also not presented as evidence at the trial, Ibid, p. 85, Rollo

[25] See Decision, MNR Case No. 4473, p. 120, Rollo

[26] Exhibit "J-1"

[27] Exhibit "I"

[28] Exhibit "H"

[29] Joint Decision, CFI of Davao, p. 87, Rollo

[30] Decision, MNR Case No. 4473, pp. 120-121, Rollo

[31] Decision, MNR Case No. 4473, p. 121, Rollo

[32] Ibid, p. 121, Rollo

[33] Exhibit "C"

[34] Joint Decision, CFI of Davao, p. 86, Rollo

[35] Exhibits "D", "D-1" to "D-6"

[36] Joint Decision, CFI of Davao, pp. 89-91, Rollo

[37] pp. 7-25, Second Amended Record on Appeal, p. 192, Rollo

[38] C.A. 141, as amended

[39] pp. 25-35, Second Amended Record on Appeal, p. 192, Rollo

[40] p. 46, Second Amended Record on Appeal, p.192, Rollo

[41] pp. 83-95, Rollo

[42] pp. 118-133, Rollo

[43] pp. 52-53, Petition, p. 55, Rollo

[44] C.A. 141, as amended

[45] Director of Lands vs. Court of Appeals, 129 SCRA 689, 692

[46] Heirs of Jose Amunategui vs. Director of Forestry, 126 SCRA 69, 75

[47] C.A. 141 as amended

[48] Lacaste vs. Director of Lands, 63 Phil. 654; Mesina vs. Vda. de Sonza, 108 Phil. 251; Manarpaac vs. Cabauatan, 21 SCRA 743; Miguel vs. Court of Appeals, 29 SCRA 760

[49] Miguel vs. Court of Appeals, 29 SCRA 760, 778 [1969]

[50] Herico vs. Dar, 95 SCRA 437, 444 [1980]

[51] Pre-trial Order, dated August 18, 1980, p. 39, Second Amended Record on Appeal, p. 192, Rollo

[52] Exhibit "I"

[53] Exhibit "H"

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