

**DOMINGA REGIDOR, FAUSTA REGIDOR, ALEJANDRO REGIDOR,
LEONARDA REGIDOR, APOLINARIA REGIDOR, CECILIA REGIDOR,
EUGENIO REGIDOR AND BERNARDINO REGIDOR, PETITIONERS, VS.
HONORABLE COU...**

G.R. No. 78115. March 05, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari seeking reversal of the decision[1] of the Court of Appeals dated August 29, 1986, in CA-G.R. SP No. 07731, which dismissed the petition for annulment of judgment filed by petitioners; and, its resolution dated November 13, 1986, which denied the motion for reconsideration.

The antecedent facts are, as follows:

In October, 1976, private respondents Filomeno Alegarbes, Crisanta Alegarbes Belleza, Jesus Alegarbes and Prisca A. Dayondon filed a complaint[2] for recovery of ownership and possession of Lot No. 2109, covered by Free Patent No. 502692 and OCT No. 0-7093 against Manuel Regidor, who is the husband of petitioner Dominga Regidor and father of petitioners Fausta, Alejandro, Leonarda, Apolinaria, Cecilia, Eugenio and Bernardino, all surnamed Regidor. It was filed before the then Court of First Instance of Cebu, 14th Judicial District, Branch XV, docketed as Civil Case No. AV-353.

On January 24, 1980, the trial court rendered judgment upholding the claim of private respondents, the dispositive portion of which, reads:

"WHEREFORE, in view of all the foregoing facts and circumstances, judgment is hereby rendered in favor of the plaintiffs and against the defendants: that O.C.T. No. 0-7093 for Lot No. 2109, Free Patent No. 502692 issued in the name of defendant Manuel Regidor is hereby ordered cancelled; that defendant Manuel Regidor is hereby ordered to reconvey the lot covered by the aforecited title to the herein plaintiffs; ordering the defendant, Manuel Regidor, to pay P5,000.00 to the plaintiffs by way of moral damages; ordering defendant. Manuel Regidor to pay P3,000.00 as attorney's fees and costs.

"SO ORDERED."[3]

Petitioners then filed an appeal before public respondent Court of Appeals which was, however, dismissed for their failure to pay the required docket fee.

Later, private respondents were able to secure a writ of execution which was about to be enforced by the provincial sheriff.

On October 21, 1985, petitioners filed a petition for annulment of the trial court's decision before respondent court, based on the following grounds:

"1. That the trial court has no jurisdiction to disturb the findings made by the Executive Branch in awarding a

free patent to Manuel Regidor;

"2. That plaintiffs therein (now private respondents herein) had no personality to bring the action for annulment of free patent because only the Solicitor General can bring an action for reversion of land under the Public Land Act;

"3. That petitioners were deprived of due process because they were denied the opportunity to have their case ventilated in the Court of Appeals when their appeal was dismissed for failure to pay the docket fees; and

"4. That since the land is conjugal property, the judgment in said civil case does not bind the other half belonging to the surviving spouse, petitioner Maria Regidor." [4]

On August 29, 1986, respondent court dismissed the petition, [5] rationalizing, as follows:

"It appears, however, that the decision of the then CFI of Cebu in Civil Case No. AV-353 is already final and executory, since the appeal therefrom had been dismissed by the then Court of Appeals and the RTC of Cebu (Argo (sic) Branch) has already issued a Writ of execution for its implementation. Apparently, petitioners are now utilizing this petition for annulment of the decision in lieu of the appeal which they lost.

"Petitioners claims that the then CFI of Cebu (Argo (sic) Branch) had no jurisdiction to disturb the findings of the Bureau of Lands approved by the Secretary of Agriculture and Natural Resources. But the power of judicial review over executive action has always existed in the courts.

"It is not correct for petitioners to claim that the plaintiffs in Civil Case No. AV-353 had no personality to bring the action therein and that only the Solicitor General could bring an action for reversion of land, because the action in said Civil Case No. AV-353 was an action for reconveyance of the land that defendant therein was tenanted on the ground of fraud in securing a free patent title. It was, therefore, not an action for reversion of land, contrary to the claim of petitioners herein.

"There was no deprivation of due process because petitioners' appeal to the then Court of Appeals was dismissed for failure to pay the docket fee. Petitioners claim this was error of their counsel, but the rule is that mistakes of counsel are imputable to their clients.

"Petitioners try to escape the valid jurisdiction of the lower court by claiming that the land was conjugal and therefore the rights of the surviving spouse cannot be affected. However, this point is covered by the res judicata rule and by the fact that the Free Patent Title itself, copy of which is attached to the petition, was in the name of Manuel Regidor only. Moreover, petitioners' claim that Manuel Regidor died in 1981 while the appeal to the then Court of Appeals of Civil Case No. AV-353 (was pending), appears to be false because a xerox copy of the certified copy of his Death Certificate showed that he died on July 2, 1982. (p. 26, Rollo)." [6]

The respondent court should have confined its disquisition on the first issue, as We shall briefly elucidate later. On November 13, 1986, the motion for reconsideration was denied. [7] Hence, the present petition for review on certiorari.

Petitioners raise the following issues:

1. whether or not the lower court has jurisdiction and authority to cancel a free patent title issued by the Bureau of Lands at the instance of a private individual;
2. whether or not an action for reconveyance based on alleged fraud filed after more than 4 years from the discovery of such alleged fraud could prosper; and
3. whether or not the instant case is an exception to the general rule that clients must suffer from the negligence of their counsel.

A judgment can be annulled only on two grounds: (a) that the judgment is void for want of jurisdiction or for lack of due process of law, or (b) that it has been obtained by fraud.[8] Conformably with this rule, We shall disregard the last two issues raised by petitioners and limit Our discussion on the issue of lack of jurisdiction. The respondent court should have likewise limited its discussion on this issue.

Petitioners persist that in ordering reconveyance of the questioned property in favor of private respondents, the trial court acted as an administrative body usurping the power of the Bureau of Lands by awarding through judicial decision said property to private respondents.

This argument of petitioners has long been put to rest by settled jurisprudence.[9] In the old case of *Vital v. Anore, et al.*, [10] We distinctly enunciated the rule that the true owner may bring an action to have the ownership or title to the land judicially determined and the Court in the exercise of its jurisdiction, may direct the defendant, the registered owner, to reconvey the land to the plaintiff who has been found to be the true owner thereof. This has been Our consistent ruling and We presume that petitioners are cognizant thereof. If the aim of this petition is to overturn said rule, definitely, their one-sentence argument will not and does not suffice. There is no convincing reason to deviate therefrom.

We note, however, that the trial court also ordered the cancellation of the free patent and original certificate of title of Manuel Regidor. In this regard, it erred in doing so. The jurisdiction of trial courts is solely to order the reconveyance of the subject land.[11]

WHEREFORE, the petition is hereby DENIED. The decision of the Court of Appeals dated August 29, 1986 and its resolution dated November 13, 1986 are AFFIRMED, subject to the modification that the order of the trial court for cancellation of the free patent and original certificate of title of Manuel Regidor are deleted.
SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

[1] Penned by Associate Justice Bienvenido C. Ejercito and concurred by Associate Justices Jorge R. Coquia and Antonio M. Martinez.

[2] Pp. 10-14, Rollo.

[3] Pp. 18-19, CA Rollo.

[4] P. 42, Rollo.

[5] P. 43, Rollo.

[6] Pp. 42-43, Rollo.

[7] P. 46, CA Rollo.

[8] *Mercado, et al. v. Ubay, etc., et al.*, G.R. No. L-35830, 187 SCRA 719 (1990)

[9] *Esconde v. Barlongay, et al.*, G.R. No. 67583, 152 SCRA 603 (1987); *Liwalug Amerol, et al. v. Molok Bagumbaran*, G.R. No. L-33261, 154 SCRA 396 (1987); *Sy, et al. v. Intermediate Appellate Court*, G.R. No. 66741, 162 SCRA 130 (1988); *Gomez, et al. v. Court of Appeals, et al.*, G.R. No. 77770, 168 SCRA 503 (1988); *Pajarillo, et al. v. Intermediate Appellate Court, et al.*, G.R. No. 72908, 176 SCRA 340 (1989); *Walstrom v. Mapa, Jr., et al.*, G.R. No. L-38387, 181 SCRA 431 (1990); *Linaza v. Intermediate Appellate Court*, G.R. No. 73741, 182 SCRA 855 (1990); *Sala v. CFI*, G.R. No. L-47281, 184 SCRA 694 (1990); *Alvarez, et al. v.*

Intermediate Appellate Court, et al., G.R. No. 68053, 185 SCRA 8 (1990); Salomon, et al. v. Intermediate Appellate Court, et al., G.R. No. 70263, 185 SCRA 352 (1990); Tomas, et al. v. Court of Appeals, G.R. No. 79328, 185 SCRA 627 (1990).

[10] G.R. No. L-4136, 90 Phil. 855 (1952).

[11] Vital v. Anore, et al. and Linaza v. Intermediate Appellate Court, et al., *supra*.

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