Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SPOUSES CRISPIN GALANG and CARIDAD GALANG,
Petitioners,

- versus -

SPOUSES CONRADO S. REYES AND FE DE KASTRO REYES (As substituted by their legal heir: Hermenigildo K. Reyes),
Respondents.

G.R. No. 184746

Present:

VELASCO, JR., *J., Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
REYES,* *JJ.*

Promulgated:

08 August 2012

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DECISION

MENDOZA, *J.*:

This petition for review on certiorari under Rule 45 seeks to reverse and set aside the April 9, 2008 Decision[1] of the Court of Appeals *(CA)* and its October 6, 2008 Resolution,[2] in CA–G.R. CV. No. 85660.

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* Designated Additional Member in lieu of Associate Justice Estela M. Perlas-Bernabe, per Special Order No. 1283 dated August 6, 2012.

[1] *Rollo*, pp. 19-27. Special Fourteenth Division, penned by Associate Justice Marlene Gonzales-Sison, with Associate Justice Lucenito N. Tagle (Acting Chairman, Special Fourteenth Division) and Associate Justice Monina Arevalo Zenarosa, concurring.

[2] Id. at 28-30.

The Facts

On September 4, 1997, spouses Conrado S. Reyes and Fe de Kastro Reyes *(the Reyeses)* filed a case for the annulment of Original Certificate of Title *(OCT)* No. P-928 against spouses Crispin and Caridad Galang *(the Galangs)* with the Regional Trial Court, Antipolo, Rizal *(RTC),*docketed as Civil Case No. 97-4560.

In their Complaint,[3] the Reyeses alleged that they owned two properties: (1) a subdivision project known as Ponderosa Heights Subdivision *(Ponderosa),* and (2) an adjoining property covered by Transfer Certificate of Title *(TCT)* No. 185252, with an area of 1,201 sq.m.;[4] that the properties were separated by the Marigman Creek, which dried up sometime in 1980 when it changed its course and passed through Ponderosa; that the Galangs, by employing manipulation and fraud, were able to obtain a certificate of title over the dried up creek bed from the Department of Environment and Natural Resources *(DENR),* through its Provincial Office *(PENRO)*; that, specifically, the property was denominated as Lot 5735, Cad 29 Ext., Case-1, with an area of 1,573 sq.m. covered by OCT No. P-928; that they discovered the existence of the certificate of title sometime in March 1997 when their caretaker, Federico Enteroso *(Enteroso),* informed them that the subject property had been fraudulently titled in the names of the Galangs; that in 1984, prior to such discovery, Enteroso applied for the titling of the property, as he had been occupying it since 1968 and had built his house on it; that, later, Enteroso requested them to continue the application because of financial constraints on his part;[5] that they continued the application, but later learned that the application papers were lost in the

[3] Id. at 40-44.
[4] Id. at 41.
[5] Id. at 41-42.

Assessor's Office;[6] and that as the owners of the land where the new course of water passed, they are entitled to the ownership of the property to compensate them for the loss of the land being occupied by the new creek.

The Galangs in their Answer[7] denied that the land subject of the complaint was part of a creek and countered that OCT No. P-928 was issued to them after they had complied with the free patent requirements of the DENR, through the PENRO; that they and their predecessor-in-interest had been in possession, occupation, cultivation, and ownership of the land for quite some time; that the property described under TCT No. 185252 belonged to Apolonio Galang, their predecessor-in-interest, under OCT No. 3991; that the property was transferred in the names of the Reyeses through falsified document;[8] that assuming *ex gratia argumenti* that the creek had indeed changed its course and passed through Ponderosa, the Reyeses had already claimed for themselves the portion of the dried creek which adjoined and co-existed with their property; that Enteroso was able to occupy a portion of their land by means of force, coercion, machinations, and stealth in 1981; that such unlawful entry was then the subject of an Accion Publiciana before the RTC of Antipolo City (Branch 72); and that at the time of the filing of the Complaint, the matter was still subject of an appeal before the CA, under CA-G.R. CV No. 53509.

The RTC Decision

In its Decision,[9] dated July 16, 2004, the RTC dismissed the complaint for lack of cause of action and for being an erroneous remedy. The RTC stated that a title issued upon a patent may be annulled only on grounds of actual and intrinsic fraud, which much consist of an intentional omission of

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[6] Id. at 43.
[7] Id. at 48-53.
[8] Id. at 56.
[9] Id. at 55-61.

fact required by law to be stated in the application or willful statement of a claim against the truth. In the case before the trial court, the Reyeses presented no evidence of fraud despite their allegations that the Galangs were not in possession of the property and that it was part of a dried creek. There being no evidence, these contentions remained allegations and could not defeat the title of the Galangs. The RTC wrote:

> A title issued upon patent may be annulled only on ground of actual fraud.
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> Such fraud must consist [of] an intentional omission of fact required by law to be stated in the application or willful statement of a claim against the truth. It must show some specific facts intended to deceive and deprive another of his right. The fraud must be actual and intrinsic, not merely constructive or intrinsic; the evidence thereof must be clear, convincing and more than merely preponderant, because the proceedings which are being assailed as having been fraudulent are judicial proceedings, which by law, are presumed to have been fair and regular. (Libudan v. Palma Gil 45 SCRA 17)
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> However, aside from allegations that defendant Galang is not in possession of the property and that the property was part of a dried creek, no other sufficient evidence of fraud was presented by the plaintiffs. They have, thus, remained allegations, which cannot defeat the defendants title.[10]

The RTC added that the land, having been acquired through a homestead patent, was presumably public land. Therefore, only the State can institute an action for the annulment of the title covering it.

It further opined that because the Reyeses claimed to have acquired the property by right of accretion, they should have filed an action for reconveyance, explaining "[t]hat the remedy of persons whose property had been wrongly or erroneously registered in another's name is not to set aside

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[10] Id. at 69.

the decree/title, but an action for reconveyance, or if the property has passed into the hands of an innocent purchaser for value, an action for damages."[11]

The Court of Appeals Decision

In its Decision, dated April 9, 2008, the CA *reversed* and *set aside* the RTC decision and ordered the cancellation of OCT No. P-928 and the reconveyance of the land to the Reyeses.

The CA found that the Reyeses had proven by preponderance of evidence that the subject land was a portion of the creek bed that was abandoned through the natural change in the course of the water, which had now traversed a portion of Ponderosa. As owners of the land occupied by the new course of the creek, the Reyeses had become the owners of the abandoned creek bed *ipso facto*. Inasmuch as the subject land had become private, a free patent issued over it was null and void and produced no legal effect whatsoever. *A posteriori*, the free patent covering the subject land, a private land, and the certificate of title issued pursuant thereto, are null and void.[12]

The Galangs moved for a reconsideration,[13] but their motion was denied in a Resolution dated October 6, 2008.

Hence, this petition.

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[11] Id. at 60-61.
[12] Id. at 24.
[13] Id. at 32-38.

Issues

The Galangs present, as warranting a review of the questioned CA decision, the following grounds:

> **THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT RESOLVING THAT THE OFFICE OF THE SOLICITOR GENERAL, NOT THE PRIVATE RESPONDENTS, HAS THE SOLE AUTHORITY TO FILE [CASES FOR] ANNULMENT OF TITLE INVOLVING PUBLIC LAND.**
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> **THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN HOLDING THAT PRIVATE RESPONDENTS HAVE [A] CAUSE OF ACTION AGAINST PETITIONERS EVEN WITHOUT EXHAUSTION OF ADMINISTRATIVE REMED[IES].**
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> **THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DEVIATING FROM THE FINDINGS OF FACT OF THE TRIAL COURT AND INTERPRETING ARTICLE 420 IN RELATION TO ARTICLE 461 OF THE CIVIL CODE OF THE PHILIPPINES BY SUBSTITUTING ITS OWN OPINION BASED ON ASSUMPTION OF FACTS.**[14]

A reading of the records discloses that these can be synthesized into two principal issues, to wit: (1) whether the Reyeses can file the present action for annulment of a free patent title and reconveyance; and (2) if they can, whether they were able to prove their cause of action against the Galangs.

The Court's Ruling

Regarding the first issue, the Galangs state that the property was formerly a public land, titled in their names by virtue of Free Patent No. 045802-96-2847 issued by the DENR. Thus, they posit that the Reyeses do not have the personality and authority to institute any action for annulment

[14] Id. at 11.

of title because such authority is vested in the Republic of the Philippines, through the Office of the Solicitor General.[15]

In this regard, the Galangs are mistaken. The action filed by the Reyeses seeks the transfer to their names of the title registered in the names of the Galangs. In their Complaint, they alleged that: first, they are the owners of the land, being the owners of the properties through which the Marigman creek passed when it changed its course; and second, the Galangs illegally dispossessed them by having the same property registered in their names. It was not an action for reversion which requires that the State be the one to initiate the action in order for it to prosper. The distinction between the two actions was elucidated in the case of *Heirs of Kionisala v. Heirs of Dacut*,[16] where it was written:

> **An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion.** The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. **In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land.** Hence in *Gabila v. Barriga* where the plaintiff in his complaint admits that he has no right to demand the cancellation or amendment of the defendant's title because even if the title were cancelled or amended the ownership of the land embraced therein or of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.
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> On the other hand**, a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake; as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff.** In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void ab initio. **The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership**

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[15] Id. at 12.
[16] 428 Phil. 249 (2002).

over the parcel of land in question even before the grant of title to the defendant. In *Heirs of Marciano Nagano v. Court of Appeals* we ruled –

> x x x x from the allegations in the complaint x x x private respondents claim ownership of the 2,250 square meter portion for having possessed it in the concept of an owner, openly, peacefully, publicly, continuously and adversely since 1920. This claim is an assertion that the lot is private land x x x x Consequently, merely on the basis of the allegations in the complaint, the lot in question is apparently beyond the jurisdiction of the Director of the Bureau of Lands and could not be the subject of a Free Patent. Hence, the dismissal of private respondents' complaint was premature and trial on the merits should have been conducted to thresh out evidentiary matters. It would have been entirely different if the action were clearly for reversion, in which case, it would have to be instituted by the Solicitor General pursuant to Section 101 of C.A. No. 141 x x x x

It is obvious that private respondents allege in their complaint all the facts necessary to seek the nullification of the free patents as well as the certificates of title covering Lot 1015 and Lot 1017. Clearly, they are the real parties in interest in light of their allegations that they have always been the owners and possessors of the two (2) parcels of land even prior to the issuance of the documents of title in petitioners' favor, hence the latter could only have committed fraud in securing them –

> x x x x That plaintiffs are absolute and exclusive owners and in actual possession and cultivation of two parcels of agricultural lands herein particularly described as follows [technical description of Lot 1017 and Lot 1015] x x x x 3. That plaintiffs became absolute and exclusive owners of the abovesaid parcels of land by virtue of inheritance from their late father, Honorio Dacut, who in turn acquired the same from a certain Blasito Yacapin and from then on was in possession thereof exclusively, adversely and in the concept of owner for more than thirty (30) years x x x x 4. That recently, plaintiff discovered that defendants, without the knowledge and consent of the former, fraudulently applied for patent the said parcels of land and as a result thereof certificates of titles had been issued to them as evidenced by certificate of title No. P-19819 in the name of the Hrs. of Ambrocio Kionisala, and No. P-20229 in the name of Isabel Kionisala x x x x 5. That the patents issued to defendants are null and void, the same having been issued fraudulently, defendants not having been and/or in actual possession of the

> litigated properties and the statement they may have made in their application are false and without basis in fact, and, the Department of Environment and Natural Resources not having any jurisdiction on the properties the same not being anymore public but already private property x x x x

It is not essential for private respondents to specifically state in the complaint the actual date when they became owners and possessors of Lot 1015 and Lot 1017. The allegations to the effect that they were so preceding the issuance of the free patents and the certificates of title, i.e., "the Department of Environment and Natural Resources not having any jurisdiction on the properties the same not being anymore public but already private property," are unquestionably adequate as a matter of pleading to oust the State of jurisdiction to grant the lots in question to petitioners. If at all, the oversight in not alleging the actual date when private respondents' ownership thereof accrued reflects a mere deficiency in details which does not amount to a failure to state a cause of action. The remedy for such deficiency would not be a motion to dismiss but a motion for bill of particulars so as to enable the filing of appropriate responsive pleadings.

With respect to the purported cause of action for **reconveyance**, it is settled that in this kind of action the free patent and the certificate of title are respected as incontrovertible. **What is sought instead is the transfer of the property, in this case the title thereof, which has been wrongfully or erroneously registered in the defendant's name. All that must be alleged in the complaint are two (2) facts which admitting them to be true would entitle the plaintiff to recover title to the disputed land, namely, (1) that the plaintiff was the owner of the land and, (2) that the defendant had illegally dispossessed him of the same.**

We rule that private respondents have sufficiently pleaded (in addition to the cause of action for declaration of free patents and certificates of title) an action for reconveyance, more specifically, one which is based on implied trust. An implied trust arises where the defendant (or in this case petitioners) allegedly acquires the disputed property through mistake or fraud so that he (or they) would be bound to hold and reconvey the property for the benefit of the person who is truly entitled to it. In the complaint, private respondents clearly assert that they have long been the absolute and exclusive owners and in actual possession and cultivation of Lot 1015 and Lot 1017 and that they were fraudulently deprived of ownership thereof when petitioners obtained free patents and certificates of title in their names. These allegations certainly measure up to the requisite statement of facts to constitute an action for reconveyance.[17] [Emphases supplied]

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[17] Id. at 260-263, cited in *Banguilan v. Court of Appeals*, G.R. No. 165815, April 27, 2007, 522 SCRA 644, 653-655.

In this case, the complaint instituted by the Reyeses before the RTC was for the annulment of the title issued to the Galangs, and not for reversion. Thus, the real party in interest here is not the State but the Reyeses who claim a right of ownership over the property in question even before the issuance of a title in favor of the Galangs. Although the Reyeses have the right to file an action for reconveyance, they have failed to prove their case. Thus, on the second issue, the Court agrees with the RTC that the Reyeses failed to adduce substantial evidence to establish their allegation that the Galangs had fraudulently registered the subject property in their names.

The CA reversed the RTC decision giving the reason that the property was the former bed of Marigman Creek, which changed its course and passed through their Ponderosa property, thus, ownership of the subject property was automatically vested in them.

The law in this regard is covered by Article 461 of the Civil Code, which provides:

> Art. 461. River beds which are abandoned through the natural change in the course of the waters ipso facto belong to the owners whose lands are occupied by the new course in proportion to the area lost. However, the owners of the lands adjoining the old bed shall have the right to acquire the same by paying the value thereof, which value shall not exceed the value of the area occupied by the new bed.

If indeed a property was the former bed of a creek that changed its course and passed through the property of the claimant, then, pursuant to

Article 461, the ownership of the old bed left to dry by the change of course was *automatically* acquired by the claimant.[18] Before such a conclusion can be reached, the fact of *natural* abandonment of the old course must be shown, that is, it must be proven that the creek indeed changed its course without artificial or man-made intervention. Thus, the claimant, in this case the Reyeses, must prove three key elements by clear and convincing evidence. These are: (1) the *old* course of the creek, (2) the *new* course of the creek, and (3) the change of course of the creek from the old location to the new location by *natural* occurrence.

In this regard, the Reyeses failed to adduce indubitable evidence to prove the *old course,* its *natural abandonment* and the *new course*. In the face of a Torrens title issued by the government, which is presumed to have been regularly issued, the evidence of the Reyeses was clearly wanting. Uncorroborated testimonial evidence will not suffice to convince the Court to order the reconveyance of the property to them. This failure did not escape the observation of the Office of the Solicitor General. Thus, it commented:

> In the case at bar, it is **not clear whether or not the Marigman Creek dried-up naturally back in 1980.** Neither did private respondents submit any findings or report from the Bureau of Lands or the DENR Regional Executive Director, who has the jurisdiction over the subject lot, regarding the **nature of change in the course of the creek's waters.** Worse, what is even **uncertain** in the present case is the **exact location** of the subject matter of dispute. This is evident from the decision of the Regional Trial Court which failed to specify which portion of the land is actually being disputed by the contending parties.
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> Since the propriety of the remedy taken by private respondents in the trial court and their legal personality to file the aforesaid action depends on whether or not the litigated property in

[18] Tolentino, II Commentaries and Jurisprudence on the Civil Code of the Philippines 137 (1992 ed., reprinted 2005), citing *Fitzimmons v. Cassity*, (La. App.) 172 So. 824.

> the present case still forms part of the public domain, or had already been converted into a private land, **the identification of the actual portion of the land subject of the controversy becomes necessary and indispensable** in deciding the issues herein involved.
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> Notably, private respondents failed to submit during trial any convincing proof of a similar declaration by the government that a portion of the Marigman Creek had already dried-up and that the same is already considered alienable and disposable agricultural land which they could acquire through acquisitive prescription.
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> Indeed, a thorough investigation is very imperative in the light of the conflicting factual issues as to the character and actual location of the property in dispute. These factual issues could properly be resolved by the DENR and the Land Management Bureau, which have the authority to do so and have the duty to carry out the provisions of the Public Land Act, after both parties have been fully given the chance to present all their evidence.[19] [Emphases supplied]

Moreover, during cross-examination, Conrado S. Reyes admitted that the plan surveyed for Fe de Castro Reyes and Jose de Castro, marked before the RTC as Exhibit "A-2," was prepared by a geodetic engineer without conducting an actual survey on the ground:

> COUNSEL FOR DEFENDANTS:
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> I am showing to you Exhibit "A-2" which is a plan surveyed for Fe de Kastro Reyes and Jose de Kastro. This plan was prepared by the geodetic engineer without conducting actual survey on the ground, is it not?
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> A: I cannot agree to that question.
>
> Q: But based on the certification of the geodetic engineer, who prepared this it appears that this plan was plotted only based on the certification on this plan marked as Exhibit "A-2", is it not?
>
> A: Yes, sir.

[19] *Rollo*, pp. 109-112.

Q: So, based on this certification that the geodetic engineer conducted the survey of this plan based on the technical description without conducting actual survey on the ground?

A: Yes, sir.[20]

At some point, Mr. Reyes admitted that he was not sure that the property even existed:

COUNSEL FOR DEFENDANTS:

The subject matter of this document Exhibit I is that, that property which at present is titled in the name of Fe de Castro Reyes married to Conrado Reyes, et.al. is that correct?

A: Yes.

Q: The subject matter of this case now is the adjoining lot of this TCT 185252, is that correct?

A: I do not know.

Q: You mean you do not know the lot subject matter of this case?

A: I do not know whether it really exists.

Q: Just answer the question, you do not know?

A: Yes.[21]

The conflicting claims here are (1) the title of the Galangs issued by the DENR, through the PENRO, and (2) the claim of the Reyeses, based on unsubstantiated testimony, that the land in question is the former bed of a dried up creek. As between these two claims, this Court is inclined to decide in favor of the Galangs who hold a valid and subsisting title to the property which, in the absence of evidence to the contrary, the Court presumes to have been issued by the PENRO in the regular performance of its official duty.

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[20] TSN, Civil Case No. 97-4560, May 7, 1999, p. 6.
[21] TSN, Civil Case No. 97-4560, May 21, 1999, p. 9.

in favor of the Galangs who hold a valid and subsisting title to the property which, in the absence of evidence to the contrary, the Court presumes to have been issued by the PENRO in the regular performance of its official duty.

The bottom line here is that, fraud and misrepresentation, as grounds for cancellation of patent and annulment of title, should never be presumed, but must be proved by clear and convincing evidence, with mere preponderance of evidence not being adequate. Fraud is a question of fact which must be proved.[22]

In this case, the allegations of fraud were never proven. There was no evidence at all specifically showing actual fraud or misrepresentation. Thus, the Court cannot sustain the findings of the CA.

WHEREFORE, the petition is **GRANTED**. The April 9, 2008 Decision and the October 6, 2008 Resolution of the Court of Appeals, in CA–G.R. CV. No. 85660, are hereby **REVERSED** and **SET ASIDE**. Civil Case No. 97-4560 of the Regional Trial Court of Antipolo City, Branch 73, is hereby ordered **DISMISSED** for lack of merit.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[22] *Datu Kiram Sampaco v. Hadji Serad Mingca Lantud*, G.R. No. 163551, July 18, 2011, 654 SCRA 36, 49-50.

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

ROBERTO A. ABAD
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. No. 296,
The Judiciary Act of 1948, as amended