



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

FILOMENA LAZAGA, HEIRS OF
MAMERTO AGABAS, namely:
NATIVIDAD AGABAS, ERNESTO
AGABAS, HEIRS OF DOMINGA
LUCENA, namely: ARMANDO
LUCENA, HELENITA LUCENA
and ALEXANDER LUCENA, for
themselves and also as HEIRS OF
LORETA SAYDOQUEN,
Petitioners,

G.R. No. 246496

Present:

LEONEN, J.,
Chairperson,
CARANDANG,
INTING,*
ZALAMEDA,
ROSARIO, JJ.

- versus -

SPOUSES CORAZON ARCANO
and FELIAS ARCANO,
Respondents.

Promulgated:

November 15, 2021

Mis-DeBatt

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DECISION

CARANDANG, J.:

Before Us is a Petition for Review on *Certiorari*¹ assailing the Resolution² dated May 29, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 155201, which affirmed the Decision³ dated February 19, 2018 of the Regional Trial Court (RTC) of Tagudin, Ilocos Sur, Branch 25 in Civil Case No. 01671-T.

* Designated as additional Member.

¹ *Rollo*, pp. 9-41.

² Penned by Associate Justice Manuel M. Barrios, with the concurrence of Associate Justices Japar B. Dimaampao (now a Member of this Court) and Jhosep Y. Lopez (now a Member of this Court); id. at 44-47.

³ Penned by Judge Gina Juan-Chan; id. at 158-179.

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Facts of the Case

The case stemmed from a complaint for quieting of title and an action for reconveyance filed by petitioners Filomena Lazaga (Filomena), the heirs of Mamerto Agabas, the heirs of Dominga Lucena and the heirs of Loreta Saydoquen against respondents spouses Corazon Arcano (Corazon) and Felias Arcano (Felias).⁴

Petitioners claimed that they are the owners of certain parcels of land described as follows:

- a. Unirrigated riceland, situated in Nalvo, Quimposa, Suyo, Ilocos Sur, bounded on the North by Melecio Lazaga, on the South by Mamerto Agabas, on the East by Brook, and on the West by Andres Daquian, containing an area of 2258 square meters and covered by Tax Declaration (TD) No. 753-D in the name of Filomena A. Lazaga.⁵
- b. Unirrigated riceland, situated in Nalvo, Quimposa, Suyo, Ilocos Sur, bounded on the North by Filomena, on the South by Loreta A. Saydoquen, on the East by Brook, and on the West by Andres Daquian, containing an area of 2258 square meters and covered by Tax Declaration (TD) No. 754-D in the name of Mamerto Agabas.⁶
- c. Unirrigated riceland, situated in Nalvo, Quimposa, Suyo, Ilocos Sur, bounded on the North by Ramon Lazaga (now Melecio Lazaga), on the South by Dominga A. Lucena, on the East by Brook, and on the West by Andres Daquian, containing an area of 2258 square meters and covered by Tax Declaration (TD) No. 755-D in the name of Loreta A. Saydoquen.⁷
- d. Unirrigated riceland, situated in Nalvo, Quimposa, Suyo, Ilocos Sur, bounded on the North by Loreta A. Saydoquen, on the South by Brook, on the East by Brook, and on the West by Andres Daquian, containing an area of 2258 square meters and covered by Tax Declaration (TD) No. 756-D in the name of Dominga A. Lucena.⁸

The property was originally owned and possessed by Fidel Agabas (Fidel), the father of Filomena, Mamerto, Dominga and Loreta. The same was possessed and cultivated by Fidel as early as 1945 and was covered by TD No. 2778-B⁹ containing 6000 square meters under the name of Fidel. Fidel levelled the mountainous parts of the property and transformed them into ricefields. A hut was erected on the property. Fidel's family also helped in cultivating and improving the land.¹⁰

⁴ Id. at 130.

⁵ Id. at 52.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ CA *rollo*, p. 137.

¹⁰ *Rollo*, p. 131.

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Ruling of the Regional Trial Court

In its Decision³¹ dated February 19, 2018, the RTC reversed the ruling of the MCTC and dismissed the complaint filed by petitioners.

The RTC held that petitioners failed to prove the identity of the property they were claiming. The boundaries of the subject property were dubious. The lot area indicated in the tax declaration of Fidel was only 6000 square meters, but when it was subdivided into four, the lot area was 2,258 square meters each.³² In an action for reconveyance, when the identity of the property sought to be reconveyed has not been exactly determined, the action cannot prosper.³³

Ruling of the Court of Appeals

In its Resolution³⁴ dated May 29, 2018, the CA affirmed the dismissal of the complaint. The CA held that petitioners were unable to prove the identity of the property they were claiming. At most, petitioners only proved that they were in possession of four lots within the 27,694 square meter property of respondents. As such, their action cannot prosper.³⁵

The CA also held that the Petition should be dismissed because not all petitioners signed the Verification and Certification against Forum Shopping.³⁶

Proceedings Before This Court

Petitioners' arguments

While petitioners admitted that not all the parties signed the Verification and Certification against Forum Shopping, they claimed that they substantially complied with the requirements of the Rules, because they share a common interest and invoke a common cause of action.³⁷

As to the identity of the subject property, the same was never disputed by respondents, in fact, they admitted during pre-trial and even during the testimony of respondent Corazon that the subject property is a portion of their property covered by the certificate of title. Judicial admissions made by the parties are conclusive and do not require further evidence to prove them.³⁸

³¹ Supra note 3.

³² *Rollo*, p. 171.

³³ *Id.* at 173.

³⁴ Supra note 2.

³⁵ *Rollo*, pp. 46-47.

³⁶ *Id.* at 45.

³⁷ *Id.* at 19.

³⁸ *Id.* at 23.

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Be it noted that respondents have earlier filed an ejectment case against petitioners over the same parcel of land and there was no dispute as to the identity of the property. In fact, respondents also agreed during the pre-trial conference in the ejectment case that the property in question is Lot No. 758 in the Suyo Public Land Subdivision.³⁹

Petitioners also argued that Samuel committed fraud and misrepresentation in the application for free patent. Contrary to the allegation of Samuel in the application, the subject property was occupied and claimed by petitioners and their predecessors. Further, Samuel and respondents were never in possession of the subject property. As a consequence of the long adverse possession of the property, in the concept of an owner, by petitioners and their predecessors, the same had become private property and the Bureau of Lands had no jurisdiction to issue the free patent to Samuel.⁴⁰

Respondents' arguments

Respondents argued that the parties do not share the same interests. The parcels of land that are subject of this case are already individually declared and subdivided among the children of Fidel.⁴¹ The failure of the other parties to sign the Verification and Certification against Forum Shopping is an indication that they accepted the decisions of the RTC and CA.⁴²

While respondents admitted during pre-trial that the property being claimed by petitioners is a portion of Lot No. 758, petitioners, however, were unable to substantiate their claim over the land because the tax declarations they presented did not conform with the boundaries as well as the area of the portion they alleged is their property. The area indicated in the tax declaration of Fidel was only 6000 square meters, but when the subject property was subdivided, their alleged property is now 3031 square meters more than the original declared area. Then in the 2007, the area supposedly occupied by Filomena increased to 12,852 square meters.⁴³

Issue

Whether petitioners are entitled to the reconveyance of the property they are claiming.

³⁹ Id. at 24.
⁴⁰ Id. at 35.
⁴¹ Id. at 236-238.
⁴² Id. at 235-236.
⁴³ Id. at 236-238.

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Ruling of the Court

When petitioners share a common interest and invoke common defenses, signature of some petitioners are sufficient.

It is undisputed that not all petitioners signed the Verification and Certification against Forum Shopping. As a general rule, the Verification and Certification against Forum Shopping must be signed by all the plaintiffs and the signature of one is insufficient.⁴⁴ However, when the plaintiffs share a common interest and invoke a common cause of action or defense, the rule requiring all such plaintiffs or petitioners to sign the Verification and Certification against Forum Shopping may be relaxed.⁴⁵

In this case, petitioners being relatives and owners of the properties in dispute, share a common interest thereon. They acquired the properties in dispute from the same predecessor. They also share a common defense in the complaint for reconveyance. Thus, when they filed the petition before the CA, they filed it as a collective, raising the same arguments to defend their rights over the properties in question.⁴⁶ The entire property being claimed by petitioners is not actually and physically divided and the portion pertaining to each petitioner was merely identified in the tax declaration by area.

Reconveyance may be availed by the rightful owner when the property is wrongfully registered to another person.

An action for reconveyance is a legal remedy granted to a rightful owner of land wrongfully or erroneously registered in the name of another to compel the latter to reconvey the land to him. In reconveyance, the decree of registration is respected. What is sought is the transfer of the property to its rightful owner or to one with a better right.⁴⁷ The following requisites must concur: (1) the action must be brought in the name of a person claiming ownership or dominical right over the land registered in the name of the defendant; (2) the registration of the land in the name of the defendant was procured through fraud or other illegal means; (3) the property has not yet passed to an innocent purchaser for value; and (4) the action is filed after the certificate of title has already become final and incontrovertible, but within four years from the discovery of the fraud or not later than 10 years in the case of an implied trust⁴⁸ or when the party seeking the reconveyance is in actual, continuous and peaceful possession of the property, in which case,

⁴⁴ *Medado v. Heirs of Consing*, 681 Phil. 536, 546 (2012), citing *Heirs of Hernandez Sr. v. Mingoa Sr.*, 623 Phil. 303, 317 (2009), which cited *Heirs of Olarte v. Office of the Pres. of the Phils.*, 499 Phil. 562, 567 (2005).

⁴⁵ *Fernandez v. Villegas*, 741 Phil. 689, 700 (2014).

⁴⁶ *Cavile v. Heirs of Cavile*, 448 Phil. 302, 311 (2003).

⁴⁷ *Gatmaytan v. Misibis Land, Inc.*, G.R. No. 222166, June 10, 2020.

⁴⁸ *Sps. Yabut v. Alcantara*, 806 Phil. 745, 758 (2017).

the action is imprescriptible.⁴⁹

Further, to successfully maintain an action to recover ownership of a real property, the person who claims a better right to it must prove two things: first, the identity of the land claimed and second, his title thereto.⁵⁰

**Identity of the land claimed
by petitioners is sufficiently
established.**

The RTC and the CA ruled that petitioners failed to sufficiently prove the identity of the properties in dispute. We do not agree.

Petitioners have sufficiently established the identity of the land. In fact, in the Pre-Trial Order of the MCTC, the parties admitted that the subject property is the same property claimed and owned by the parties. The parties also stipulated that petitioners are in actual possession of the property in dispute. Further, respondent Corazon even admitted during her testimony that the property claimed by petitioners is part of her titled property and that the said property are being cultivated by petitioners.⁵¹ As correctly found by the MCTC, the property occupied and possessed by petitioners is subsumed in the property covered by the certificate of title of respondent Corazon.⁵²

Be it noted that respondents even filed an ejectment case against petitioners over the same parcel of land. In fact, respondents also agreed during the pre-trial conference in the ejectment case that the property in question is Lot No. 758 in the Suyo Public Land Subdivision.⁵³ Clearly, the parties are aware of the exact location of the subject property. Petitioners submitted tax declarations specifically covering the subject property. Hence, the identity of the subject property is never in dispute.

With regard to the discrepancy as to the area in Fidel's tax declaration and the area indicated in the tax declarations issued to Filomena and her siblings, Filomena explained that upon survey, when they subdivided the same, Fidel's land is actually larger than what was originally indicated in Fidel's tax declaration.⁵⁴ The 12,852 square meter area indicated in the 2007 tax declaration of Filomena is, as explained by the MCTC, merely a typographical error. Also, such notation is done and written by the assessor's office without any participation from Filomena. It is therefore unjust to prejudice the latter for the typographical error made by the assessor's office. Noted is the fact that Tax Declaration No. 753-D in the name of Filomena issued after the four children of Fidel divided the property indicate an area of 2258 square meters.

⁴⁹ *Gatmaytan v. Misibis Land, Inc.*, supra note 47.

⁵⁰ *VSD Realty & Dev't Corp. v. Uniwide Sales, Inc.*, 698 Phil. 62, 78 (2012).

⁵¹ *Rollo*, p. 137.

⁵² *Id.* at 138.

⁵³ *Id.* at 24.

⁵⁴ *Id.* at 139.

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Petitioners were able to prove their claim over the subject property.

Acquiring lands of the public domain by confirmation of imperfect or incomplete title is either through judicial legislation or through administrative legalization. The second mode refers to the grant of free patents. The application for a free patent should comply with the following requisites: (1) the applicant must be a natural born citizen of the Philippines; (2) the applicant must not own more than 12 hectares of land; (3) the applicant or his or her predecessors-in-interest must have continuously occupied and cultivated the land; (4) the continuous occupation and cultivation must be for a period of at least thirty years; and (5) payment of real estate taxes while it has not been occupied by other persons.⁵⁵ The applicant of a free patent does not claim that the land is his or her private property but acknowledges that the land is still part of the public domain.⁵⁶

In this case, the evidence overwhelmingly supports the open, continuous, exclusive and notorious possession and occupation of petitioners in the concept of an owner. They are in continuous cultivation of the subject property. Thus, in light of their open, continuous, exclusive and notorious possession and occupation of the subject property, petitioners are deemed to have acquired by operation of law, a right to a government grant, without a necessity of a certificate of title having been issued first. Their continuous possession and occupation, segregated the subject land from the public domain. As such, the Bureau of Lands had no authority to issue a free patent thereto in favor of another person. It is settled that a free patent covering a private land is null and void.⁵⁷

Here, as early as 1945, tax declarations were already issued in Fidel's name. He was in actual possession of the same together with his family. He cultivated the land, levelled the mountainous portion of the land, planted rice fields and varieties of trees. Thereafter, the subject property was subdivided to Fidel's children – Filomena and her siblings. Tax declarations were also issued in their favor and they also cultivated and possessed the subject property. While tax declarations alone are not conclusive evidence of ownership, but when the same is coupled by actual possession, tax declaration is a weighty evidence of ownership.⁵⁸

Petitioners' possession and cultivation was even corroborated by their neighbors. Apolonio and Orenzia testified that it was Fidel and his family that were in possession of the property ever since. In fact, even respondent Corazon admitted that petitioners were in actual possession of the subject property.

⁵⁵ *Taar v. Lawan*, 820 Phil. 26, 54 (2017).

⁵⁶ *Id.* at 55.

⁵⁷ *Robles v. Court of Appeals*, 384 Phil. 635, 655 (2000).

⁵⁸ *Palali v. Awisan*, 626 Phil. 357, 373-374 (2010).

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On the other hand, respondents were unable to prove their ownership and possession of the subject property. They were unable to present any evidence proving their allegation that Antonio, respondent Corazon's predecessor tolerated Fidel's possession of the subject property. Respondents did not even allege a single overt act indicative of Antonio's tolerance. Acts of tolerance must be proved showing the overt acts indicative of Antonio's tolerance or permission for Fidel and his family to occupy the subject property.⁵⁹ Without these, the bare allegation of tolerance cannot be upheld.⁶⁰

Further, considering the substantial area of the subject property, it is highly suspicious that petitioners' possession and cultivation of the same was not disturbed since 1945. Even when the whole property was the subject of a free patent and titled to Samuel and eventually to respondent Corazon, petitioners were still in an open, continuous, exclusive and notorious possession of the subject property in the concept of an owner. In fact, as admitted by respondent Corazon, petitioners were still in actual possession of the subject property.

It is necessary in the application and grant of free patents is the fact that the applicant is in actual possession and is cultivating the property. Thus, when Samuel applied for a free patent in 1966,⁶¹ he was not the actual possessor and cultivator of the subject property, since the subject property is already possessed and cultivated by Fidel as early as 1945. Samuel therefore was able to apply for a free patent over the subject property and have it titled in his name through fraud. Since the subject property was already owned by petitioners through possession and cultivation as early as 1945, the same should not have been the subject matter of a free patent in favor of Samuel.⁶² Respondents, should as a result, reconvey the subject property to petitioners, who are the rightful owners of the subject property.

WHEREFORE, the instant Petition is **GRANTED**. Accordingly, the Resolution dated May 29, 2018 of the Court of Appeals in CA-G.R. SP No. 155201 is hereby **REVERSED** and **SET ASIDE**. The Decision dated December 28, 2016 of the Municipal Circuit Trial Court of Tagudin, Ilocos Sur in Civil Case No. 508 is **REINSTATED**.

SO ORDERED.


ROSMARI D. CARANDANG
Associate Justice

⁵⁹ *De Guzman-Fuerte v. Sps. Estomo*, 830 Phil. 653, 664 (2018).

⁶⁰ *Id.*

⁶¹ *Rollo*, pp. 68-69.

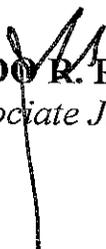
⁶² *Mendoza v. Navarette*, 288 Phil. 1122, 1140 (1992), citing *Agne v. The Director of Lands*, 261 Phil. 13, 29 (1990).

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice

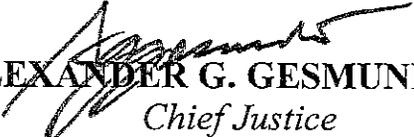
ATTESTATION

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.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.


ALEXANDER G. GESMUNDO
Chief Justice