

TWELFTH DIVISION

[CA-G.R. SP. No. 104174, May 20, 2014]

**DANILO V. FAUSTO, PETITIONER, VS. JOSELITO GOTANGCO AND
EDWARD TUCKER, RESPONDENTS.**

D E C I S I O N

ELBINIAS, J.:

For disposition is a Petition for Review^[1] under Rule 43 of the Rules of Court. The Petition assails the Decision^[2] dated January 9, 2008 of the Office of the President ("OP" for brevity) in O.P Case No. 07-B-055 entitled "Danilo Fausto v. Joselito Gotangco and Edward Tucker." The Petition also questions the OP's Resolution^[3] dated May 29, 2008 denying petitioner Danilo Fausto's ("petitioner Fausto" or "petitioner" for brevity) eventual Motion for Reconsideration.^[4]

The antecedent facts are those as found in the OP's assailed Decision^[5] dated January 9, 2008, as follows:

"On February 14, 1958, John M. Tucker (John) filed his Government Sales Application covering Lot No. 129, Pls-378, containing an area of 3 hectares, more or less, situated in the same place.

A Notice of Assessment was issued by City Assessor Raniro M. Mindanao to Eva (*Eva May Tucker here*) over Lot No. 128, with the assessed value of Php5,600.00. **On April 15, 1993, the Office of the City Treasurer of Palayan City issued a Certification that Eva, the declared owner of the property covered by Tax Declaration No. 106-003-02-00352 is not delinquent in the payment of taxes thereon.**

On November 6, 1995, a certain Albert Tucker (Albert) executed a Declaration of Heirship with Sale of Lot No. 128-D in favor of Spouses Mauro and Cecil Capinpin. The Declaration of Heirship was predicated on the allegation of Albert that he is the forced heir of Eva who died intestate on December 8, 1994. **Eventually, on December 20, 1995, Albert executed another Deed of Absolute Sale of Unregistered Land with Transfer of Rights, this time involving Lot No. 128-B in favor of Spouses Danilo and Betty Capinpin,** once again anchoring his right to sell the same by virtue of the subject Declaration of Heirship with Sale. **The same is true as regards his execution of another Deed of Absolute Sale of Unregistered Land with Transfer of Rights, involving Lot No. 129-A in favor of [Erlinda] Abad and [Nenita] Manuel.**

The wife of Albert, a certain Marilou Tucker (Marilou), who represented herself as the Attorney-in-Fact of Elizabeth Tucker

Gotangco (Gotangco), on the basis of a Special Power of Attorney (SPA) dated December 7, 1995, executed a Deed of Absolute Sale over Lot No. 129, NG-130 (*subject property here*) in favor of Fausto (*petitioner here*).

On March 10, 1998, Fausto filed his Government Sales Application No. 034919-1265 over Lot No. 129-A, NG-130 located in Caballero, Palayan City, containing an area of 17,127 square meters, more or less.

Deputy Public Land Inspector Danilo S. Bumanlag submitted on March 10, 1998 his Ocular Inspection Report to the Community Environment and Natural Resources Office (CENRO), Cabanatuan City on the said Sales Application of Fausto, with recommendation to cancel that of John, to give due course to the application of Fausto, in view of the Deed of Sale executed by Marilou in his (Fausto) favor.

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Protestants-appellees Joselito Gotangco (Joselito) and Edward Tucker (Edward) (*respondents here*) filed their formal protest dated May 5, 2003 against the Government Sales Applications of the respondents-appellants.

Said protestants-appellees alleged, among others, that they have been, through their predecessor-in-interest, in continuous, open and adverse possession of a parcel of land identified as Lot Nos. 128 and 129, NG-130, consisting of 5.4 hectares, more or less, situated in Caballero, Palayan City; that they had acquired the land in question from their mother by way of succession; that while they were working in the United States, the respondents took advantage of applying for a free patent or titling over the subject lots, without their knowledge and consent; that unknown to them, the said respondents had applied on July 5, 1999 for a free patent at the CENRO, DENR, Cabanatuan City, involving the subject lots being occupied and possessed by them (Joselito and Edward), which facilitated the filing by the respondents of their respective application thereon; that the allegations in paragraphs 4 and 5 of the respondents' applications, stating that the land respectively being applied for is not claimed or occupied by any other person, are material lies, misrepresentations, deliberate and intentional omission of facts, constituting fraud; that contrary to respondents' allegation in their applications, they have never been in occupation and possession of the subject lots at any point in time; and that the subject title was undoubtedly obtained through their misrepresentation and fraud, which justify its cancellation."^[6] (*Emphasis supplied*)

On February 15, 2005, the Regional Executive Director (RED), Region III of San Fernando, Pampanga, issued its Order^[7] sustaining respondents Joselito Gotangco and Edward Tucker's ("respondents" for brevity) Protest^[8] against petitioner's Government Sales Application No. 034919-1265. The dispositive portion of the Order stated:

"WHEREFORE, foregoing premises well-considered, the instant protest is hereby SUSTAINED. **Government Sales Application No. 034919-1265 of Danilo V. Fausto involving Lot No. 129-A, NG-130 (PLS-378) is hereby REJECTED and DROPPED from the records** and the Government Sales Application No. 034919-1491 of Nenita M. Manuel, Government Sales Application No. 034919-1492 of Erlinda Mesina Abad, Government Sales Application No. 034919-1493 of Mauro Capinpin and Government Sales Application No. 034919-1494 of Danilo Capinpin are likewise REJECTED and DROPPED, including PSN-03-000001-D in the name of Albert Tucker, et al., from the records forfeiting in favor of the government whatever amount paid on account thereof. **The heirs of the late John Tucker and Eva May Tucker are hereby directed to push through their Sales Applications over the subject lots upon finality of this Order.**

SO ORDERED."^[9] (*Emphasis supplied*)

On March 7, 2005, petitioner Fausto filed an Appeal^[10] from the RED's Order^[11] to the Department of Environment and Natural Resources ("DENR" for brevity) Secretary. On August 8, 2005, the other applicants, Erlinda Abad, Nenita Manuel, Mauro Capinpin, and Danilo Capinpin ("other applicants" for brevity) also filed an Appeal^[12] from the RED's Order^[13] to the DENR Secretary.

The Appeal of petitioner Fausto and the other applicants were jointly considered, and were eventually dismissed by the DENR Secretary in its Decision^[14] dated July 17, 2006.

On August 11, 2006, petitioner Fausto and the other applicants filed a Motion for Reconsideration^[15] of the DENR Secretary's Decision^[16] dated July 17, 2006. Their Motion however, was denied by the DENR Secretary in its Order^[17] dated January 12, 2007.

On February 2, 2007, petitioner Fausto filed before the OP, an Appeal^[18] from the DENR Secretary's Decision^[19] dated July 17, 2006 and Order^[20] dated January 12, 2007. The OP rendered its assailed Decision^[21] dated January 9, 2008 affirming the DENR Secretary's Decision.^[22]

After petitioner Fausto's Motion for Reconsideration^[23] was denied by the OP in its assailed Resolution^[24] of May 29, 2008, petitioner Fausto filed the Petition^[25] at bench, praying that:

"WHEREFORE, premises considered, it is respectfully prayed that the Decision of the Office of the President dated 09 January 2008, and the Resolution of the same Office dated 29 May 2008 be annulled and set aside and in lieu thereof, an order be issued:

1. Sustaining Government Sales Application No. 034919-1265 filed by Danilo Fausto over Lot 129-A, NG-130, PLS-378 covering an area of Seventeen Thousand One Hundred Twenty Seven square meters and seventy decimeters (17,127.70).

2. Declaring the award of Lot 129-A in favor of Danilo Fausto legal and valid.
3. Directing the execution of the corresponding Deed of Absolute Sale over Lot 129-A in favor of Danilo Fausto.
4. Dismissing the protest filed by appellees Joselito Gotangco and Edward Tucker over Lot 129-A.

It is likewise prayed that other reliefs that are just and equitable in the premises be granted.”^[26] (*Emphasis supplied in the original*)

The Petition raised the following assignment of errors:

“ASSIGNMENTS (*sic*) OF ERROR[S]

I.

JOHN TUCKER (THE RESPONDENTS-APPELLEES' SUPPOSED PREDECESSOR-IN-INTEREST) HAD NO RIGHTS TO THE SUBJECT PROPERTY THAT HE COULD HAVE TRANSMITTED TO HIS HEIRS.

II.

ASSUMING PURELY IN GRATIA ARGUMENTIS THAT JOHN TUCKER HAD SOME REAL RIGHT OVER THE SUBJECT PROPERTY THAT HE COULD TRANSMIT TO HIS HEIRS, THE RESPONDENTS-APPELLEES' PROTEST DATED 05 MAY 2003 SHOULD NEVERTHELESS BE DISMISSED BECAUSE:

A. SINCE THE RESPONDENTS-APPELLEES ASSERT THAT THEY ACQUIRED RIGHTS TO THE SUBJECT PROPERTY FROM THEIR MOTHER, THEY NECESSARILY ADMIT THAT NEITHER OF THEM DERIVE ANY RIGHTS FROM JOHN TUCKER WHO IS MALE.

B. THE APPELLEES MISERABLY FAILED TO ADDUCE ANY PROOF THAT THEY ARE THE FORCED OR LEGAL HEIRS OF JOHN TUCKER.

C. THE APPELLEES, BEING CITIZENS AND RESIDENTS OF THE UNITED STATES OF AMERICA, ARE PROHIBITED FROM ACQUIRING PUBLIC LAND, AND COULD NOT HAVE BEEN IN ACTUAL PHYSICAL POSSESSION AND OCCUPATION OF THE SUBJECT PROPERTY.

III.

PETITIONER-APPELLANT FAUSTO ACQUIRED THE SUBJECT PROPERTY IN A LAWFULLY CONDUCTED PUBLIC BIDDING, AND IS THEREFORE ENTITLED TO THE ISSUANCE OF A DEED OF SALE IN HIS FAVOR.

IV.

APPELLEES' RIGHT TO PROTEST THE APPLICATION OF APPELLANT FAUSTO OVER THE DISPUTED PROPERTY HAD ALREADY LAPSED WHEN THEY FILED THE SAME.”^[27] (*Emphasis supplied in the original*)

At the outset, the Petition for Review^[28] is dismissible, because of petitioner Fausto's failure to state the issues involved and the grounds relied upon for the review of the OP's Decision^[29] dated January 9, 2008. Such statement of issues and statement of grounds are required under Section 6, Rule 43 of the Rules of Court, to wit:

"SEC. 6. *Contents of the petition.*—The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) **contain a concise statement of the facts and issues involved and the grounds relied upon for the review**; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein." (*Italics was made in the original; Emphasis supplied*)

The absence of such statement of issues and statement of grounds is fatal to the instant Petition,^[30] warranting the dismissal of the Petition. This is pursuant to Section 7, Rule 43 of the Rules of Court, which provides:

"SEC. 7. *Effect of failure to comply with requirements.*—**The failure of the petitioner to comply with any of the foregoing requirements regarding** the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and **the contents of** and the documents which should accompany **the petition shall be sufficient ground for the dismissal thereof.**" (*Italics was made in the original; Emphasis supplied*)

Even assuming that petitioner Fausto's "Assignment of Errors" could be considered as the required "Statement of Issues and Grounds," still, petitioner Fausto's positions, after a careful study of the Petition, were revealed to be unmeritorious.

Contrary to petitioner Fausto's arguments in his *assignment of error III*, petitioner Fausto did not lawfully acquire the subject property.

Petitioner Fausto had argued that:

"The foregoing evidence, coupled with the fact that there were no lawful private claims relating to the subject property, indubitably shows that petitioner-appellant Fausto has established his right over Lot 129-A as he has fully complied with the sales provision of the Public Land Act. Petitioner-appellant Fausto was the sole applicant who offered the bid in the auction sale conducted by the DENR itself. He was also able to show and prove to the government and concerned officials, his qualifications and compliance with the requirements of the law. More importantly, he was in actual physical possession of the land in question even before the sales application was filed and during the time that the auction sale was conducted. He introduced improvements thereon and the land was declared in his name for taxation purposes.