

## SECOND DIVISION

[ G.R. No. 206168, April 26, 2017 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY RAW-AN  
POINT ELEMENTARY SCHOOL, PETITIONER, V. SPOUSES  
DOLORES AND ABE LASMARIAS; AND COOPERATIVE BANK OF  
LANAO DEL NORTE, REPRESENTED BY THE BRANCH MANAGER,  
LAARNI ZALSOS, RESPONDENTS.**

### DECISION

**PERALTA, J.:**

For resolution of this Court is the Petition for Review on *Certiorari* under Rule 45 dated April 25, 2013 of petitioner Republic of the Philippines, represented by Raw-An Point Elementary School that seeks to reverse and set aside the Court of Appeals' (CA) Decision<sup>[1]</sup> dated March 1, 2013 that dismissed petitioner's appeal in CA-G.R. CV No. 01536-MIN and affirmed with modification the Decision<sup>[2]</sup> dated January 28, 2008 of Branch 7, Regional Trial Court, Tubod, Lanao del Norte in favor of respondents spouses Dolores and Abe Lasmarias in a case for recovery of possession filed by the same respondents against herein petitioner.

The facts, as found by the RTC and the CA, follow.

Respondents, spouses Dolores and Abe Lasmarias, bought Lot No. 1991-A-1, Csd-12-000051 with an area of 4.8595 hectares including a fishpond located at Raw-An Point, Baroy, Lanao del Norte from Aida Solijon,<sup>[3]</sup> who executed a Deed of Sale of Registered Land dated May 6, 1991 signed by her husband, Nicanor Aguilar, Jr. and notarized before a Notary Public. The said lot was registered to Solijon per OCT No. P-8720 issued by virtue of Free Patent No. XII-2744, applied for by Solijon in 1984 and granted in 1986.

The sale was not registered or annotated on the OCT nor was the title transferred in respondents' names in order to avoid paying taxes.

In 1997 to 1999, respondents, through a Special Power of Attorney executed by Solijon, executed a Real Estate Mortgage on the disputed lot with the Cooperative Bank of Lanao del Norte, however, respondents failed to satisfy their obligation resulting to the foreclosure of the mortgaged property. The said mortgage was annotated on the OCT without a deed of sale attached. The last entry on the OCT is the sale executed by the sheriff in favor of the bank as the highest bidder. Accordingly, the respondents were given five (5) years to redeem the property.

In the meantime, a relocation survey was conducted on the disputed lot and Geodetic Engr. Rogelio Manoop, Jr. found that a portion of petitioner, Raw-An Point Elementary School, partly encroached on Lot 1991-A-1, Csd-12-000051. Respondents informed the school principal and they agreed to have another survey

that resulted to the same findings. Thus, respondents sent a letter to vacate dated July 26, 2001 to the petitioner, but to no avail.

Respondents then, on September 13, 2001, filed a complaint for recovery of possession against the petitioner.

Respondents presented Engr. Manoop's sketch plan and Certification dated October 30, 2001 stating that a portion of the petitioner's structure containing an area of 7,700 sq. m., more or less, is within Lot 1991-A-1, Csd-12-000051. Respondents knew that petitioner, through the then Department of Education Culture and Sports (*DECS*), owns a lot in the same area donated to it by Necias Balatero through a Deed of Donation executed on January 14, 1992, however, respondents insisted that the lot donated is not the present school site but rather the lot adjacent thereto. Respondents further claimed that Nicanor Aguilar, Sr. previously donated a 1.179-hectare lot to the school, first in the early 1950s or 1960s and second in the early 1990s, but upon seeing the sketch, respondents saw that the present school site is also different from the one Nicanor Aguilar, Sr. donated.

The Cooperative Bank of Lanao del Norte intervened in the proceedings before the RTC claiming that it is the present registered owner of the subject lot under TCT No. T-23418 by virtue of the auction sale after the respondents failed to pay their loan secured by the property mortgaged. According to the bank, although the OCT presented to them was registered in Solijon's name, it allowed respondents to use it as security because the Special Power of Attorney executed by Solijon allowed respondents to mortgage the same property. The bank claimed good faith and prayed that it be declared the legitimate owner of the land and for petitioner to vacate the property.

Petitioner, on the other hand, insisted that the school building has been in existence on the subject lot since 1950 as supported by school records showing its operation as early as 1955. It, however, conceded that the lot donated to them by Necias Balatero is adjacent to the school but maintained that the donation was only in addition to the present school site. Petitioner also admitted that it has no title on the property where the school presently stands, but according to petitioner, considering the length of the school's existence thereon, it would have been improbable for another person to obtain title thereto, much less, a free patent. Petitioner further averred that respondents' action has already prescribed. It also argued that at the time Solijon applied for a Free Patent, the lot was already occupied, thus, Solijon must have committed fraud and misrepresentation when she applied for a Free Patent which requires that the applicant must be in exclusive possession of the property. Such fraud and misrepresentation, therefore, according to petitioner, is enough to nullify the grant of patent and title in Solijon's name.

Thereafter, the RTC ordered for a relocation survey which was conducted on December 14, 2003 wherein it was found that the school actually occupied 8,675 sq. m. of Solijon's lot and that the lot in petitioner's name is located 12 meters away from the school compound, which is along the south portion of Solijon's property. However, no house of Solijon was found within the subject lot.

During his testimony, the Officer-in-Charge of the Community Environment and Natural Resources Office (*CENRO*), Kolambugan, Lanao del Norte, stated that the records, with respect to Solijon's patent application, were damaged by termites and

could no longer be reproduced, however, their records officer attested that Solijon applied for a patent as recorded on their patent book.

Meanwhile, on July 19, 2006, 8,675 sq. m. of the subject lot was bought by respondents from the Cooperative Bank of Lanao del Norte.

In its Decision dated January 28, 2008, the RTC ruled in favor of the respondents and disposed of the case as follows:

WHEREFORE, in the light of the foregoing, and by preponderance of evidence, judgment is rendered by the Court in favor of plaintiffs and against defendants, especially [the] Department of Education (DepEd), formerly known as Department of Education, Culture and Sports, to wit:

1) Ordering defendants, especially, DepEd (formerly DECS), to surrender to plaintiffs after the finality of the decision, the 2,760 Square Meters of 8,675 Square Meters, as per Exhs. "E-1" and "E-4," which they are in possession and usurped from them, out of the total area of 48,595 Square Meters, located at Raw-An Point, Baroy, Lanao del Norte (although it [is] still covered by OCT No. P-8720, in the name of Aida Solejon;

2) Ordering defendants, especially DepEd (formerly DECS), to remove school buildings and other structures, which they illegally constructed, and found in said portion (per paragraph No. 1 above), and to vacate the same, including the fishponds they are occupying, after the finality of the decision;

3) Ordering defendants, to pay jointly and solidarity, plaintiffs P70,000.00 actual damages, twice a year of P140,000.00 per year of harvest of bangus and shrimps out of the fishpond, which is part of Lot 1991-A-1 of plaintiffs, since the demand to vacate on July 26, 2001, until the finality of the decision of which they engaged themselves in proprietary undertakings; and attorney's fees of P20,000.00 and P1,000.00 per hearing. But no moral and exemplary damages are awarded, for being devoid of merit and consideration;

4) On Intervention by plaintiff-in-intervention, Cooperative Bank of Lanao del Norte, its rights over the property, subject to this case are respected, subject to the interests of plaintiffs, who had repurchase[d] the portion of Lot 1991-A-1 and covered by deposit to repurchase, and for the rest to be repurchased, if any, as admitted by its complaint-in-intervention, and the exhibits it offered;

5) Ordering the dismissal of the special/affirmative defenses and counterclaim of defendants;

6) Ordering defendants to pay the costs of the proceedings.

SO ORDERED.<sup>[4]</sup>

Petitioner filed its appeal with the CA, and on March 1, 2003, the latter court affirmed the RTC decision with modifications, thus:

**WHEREFORE**, the appeal is **DENIED**. The January [28], 2008 Decision of the Regional Trial Court, Branch 7, Tubod, Lanao del Norte, in Civil Case No. 07-524 is **AFFIRMED** with **MODIFICATIONS**. Defendant-appellant is **ORDERED** to vacate and surrender the 8,675 sq. m. lot included in OCT No. P-8720, to the plaintiff-intervenor-appellee Cooperative Bank of Lanao del Norte as registered owner thereof per TCT No. 23,418. The award for actual damages is **DELETED**.

**SO ORDERED.**<sup>[5]</sup>

Hence, the present petition.

The ground relied upon and the argument raised by petitioner are as follows:

GROUND RELIED UPON FOR THE ALLOWANCE OF THE  
PETITION

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN RENDERING ITS DECISION DATED MARCH 1, 2013 WHICH DISMISSED PETITIONER'S APPEAL IN CA-G.R. CV No. 01536-MIN

ARGUMENT

PETITIONER WAS ABLE TO PRESENT CLEAR AND CONVINCING EVIDENCE SHOWING THAT THE FREE PATENT OVER THE SUBJECT PROPERTY WAS PROCURED THROUGH FRAUD AND MISREPRESENTATION.<sup>[6]</sup>

Petitioner maintains that it was able to adduce clear and convincing evidence that Solijon employed fraud in procuring the patent. According to petitioner, the legal infirmity in Solijon's title lies on the fact that she did not disclose in her application for free patent filed with the Bureau of Lands in 1984 that a portion of the property subject of her application was already occupied and utilized by the Raw-An Point Elementary School since the 1950s. Petitioner, however, admits that the record containing Solijon's application for free patent could no longer be located as the same was allegedly destroyed and eaten by termites.

In their Comment dated May 26, 2014, respondents assert that the existence or non-existence of fraud and misrepresentation is a question of fact that can only be resolved by the trial court and the CA and that the remedy of petition for review under Rule 45 can only be availed of on the ground of pure questions of law.

In its Reply dated September 9, 2014, petitioner contends that it raised a question of law because it seeks the review of the CA's application of the pertinent provisions of the Public Land Act and the existing jurisprudence in light of the evidence presented by the parties. Petitioner argues that the CA misapplied Sections 90 (g) and 91 of the Public Land Act relating to the requirement that an applicant for free patent must state under oath in his application that the land applied for is not occupied, improved or cultivated, either entirely or partially, by another.

The petition is meritorious.

A petition for review filed under Rule 45 may raise only questions of law. The factual findings by the Court of Appeals, when supported by substantial evidence, are generally conclusive and binding on the parties and are no longer reviewable unless the case falls under the recognized exceptions.<sup>[7]</sup> This Court is not a trier of facts