

## SECOND DIVISION

[ G.R. No. 172961, September 07, 2015 ]

**PEDRO MENDOZA [DECEASED], SUBSTITUTED BY HIS HEIRS  
FEDERICO MENDOZA AND DELFIN MENDOZA, AND JOSE  
GONZALES, PETITIONERS, VS. REYNOSA VALTE, RESPONDENT.**

### DECISION

**LEONEN, J.:**

The existence or non-existence of fraud is a legal conclusion based on a finding that the evidence presented is sufficient to establish facts constituting its elements.<sup>[1]</sup> Questions of fact are generally not entertained in a petition for review before this court.<sup>[2]</sup> In any event, petitions for a review or reopening of a decree of registration based on actual fraud must be filed before the proper court within the one-year period provided under the relevant laws.<sup>[3]</sup> The party alleging fraud must overcome the burden of proving the fraud with clear and convincing evidence.<sup>[4]</sup> Section 101 of Commonwealth No. 141 allows actions for the reversion of land fraudulently granted to private individuals filed even after the lapse of the one-year period,<sup>[5]</sup> but this must be initiated by the state.

This Petition for Review on Certiorari assails the Court of Appeals' December 28, 2005 Decision<sup>[6]</sup> and prays that the Office of the President Decision be reinstated.<sup>[7]</sup>

Sometime in 1978,<sup>[8]</sup> Reynosa Valte (Valte) filed a free patent application<sup>[9]</sup> dated July 6, 1978 for a 7.2253-hectare parcel of land<sup>[10]</sup> in San Isidro, Lupao, Nueva Ecija.<sup>[11]</sup> The application listed Procopio Vallega and Pedro Mendoza (Mendoza) as witnesses who would testify to the truth of the allegations in Valte's application.<sup>[12]</sup>

The Director of Lands then issued the Notice of Application for Free Patent stating that "[a]ll adverse claims to the tract of land above-described must [be] filed in the Bureau of Lands on or before the 7th day of August 1978. Any claim not so filed will be forever barred."<sup>[13]</sup>

On September 14, 1978, the Land Investigator certified that the land formed part of the old cadastral lot subdivided in December 1975 and approved as Csd-03-000514-D on March 25, 1976. Thus, Lot 1035-B was equivalent to Lot 2391, Cad. 144 of Lupao, Nueva Ecija.<sup>[14]</sup> The land was first occupied and cultivated by Francis Maglaya, Nemesio Jacala, and Laureano Pariñas, who sold all their rights to the portions adjudicated to them to Spouses Policarpio Valte and Miguela dela Fuente in May 1941.<sup>[15]</sup> The spouses immediately took possession. Miguela dela Fuente assumed the responsibilities over the land after her husband died. When she aged, she transferred all her rights to their only daughter, Reynosa Valte, who was found in actual possession of the land.<sup>[16]</sup> The Land Investigator recommended the grant

of Valte's application considering these findings.<sup>[17]</sup>

On December 28, 1978, the Bureau of Lands approved Valte's application and issued Free Patent No. 586435.<sup>[18]</sup> On January 31, 1979, the Cabanatuan City Register of Deeds issued OCT No. P-10119.<sup>[19]</sup>

On December 6, 1982,<sup>[20]</sup> Mendoza and Jose Gonzales (Gonzales) filed a protest against Valte's application, claiming to be "the lawful owner[s] and possessors] since 1930 thru predecessor-in-interest [and who] had been in actual uninterrupted, open, peaceful, exclusive[, ] and adverse possession in the concept of an owner of the above-described property."<sup>[21]</sup>

Mendoza and Gonzales alleged that Valte procured Free Patent No. 586435 by means of fraud, misrepresentation, and connivance.<sup>[22]</sup> Specifically:

In her application for Free Patent, applicant-respondent REYNOSA VALTE, willfully and fraudulently suppressed and omitted to state the material fact that the said land was in actual possession of the land claimants-protestants[, ] and the improvements consisting of rice paddies and pilapiles were existing long before the time Reynosa Valte filed her free patent.<sup>[23]</sup>

In view of the protest, the Department of Environment and Natural Resources notified the parties on March 10, 1993 regarding an ocular investigation. Only Mendoza and Gonzales were present despite notice on Valte.<sup>[24]</sup>

On March 15, 1993, the Barangay Captain and other officials of San Isidro Lupao, Nueva Ecija executed a *Sinumpaang Salaysay* stating that they have been residents of the barangay since birth, that they know all the residents but do not know Valte, and that they are definite that there is no barangay resident with that name.<sup>[25]</sup>

Mendoza and Gonzales were mandated to present two (2) witnesses during the investigation.<sup>[26]</sup> They presented Eimirando Sabado, who testified that:

(1) he has been residing on the lot adjacent to the area in question since 1929; (2) he personally knows Mendoza and Gonzales who are his neighbors; (3) both Mendoza and Gonzales filed FPAs for the controverted land before 1982; (4) both Mendoza and Gonzales resided on the subject land on or before 1929; (5) no one has claimed nor interrupted their said occupation since 1929; (6) he does not know Valte who is claiming the lot and that no one had claimed the same; (7) Mendoza's father, Juan Mendoza, was the one who planted the acacia trees on the land sometime in 1949 and that, until now, there are still acacia and mango trees on the disputed lot aged twenty (20) years or more.<sup>[27]</sup>

The second witness, Agapito Pagibitan, executed an Affidavit attesting to the following:

(1) he personally knows Mendoza and Gonzales; (2) he likewise knows that both Mendoza and Gonzales have been working in said area; (3)

they are the real occupants of the lot which they have [been] tilling; (4) since 1929 no one came to the disputed area nor had claimed the same; (5) since 1929, Mendoza and Gonzales have been the ones who introduced improvements on the land such as mango, tamarind, acacia and star apple trees; (6) Mendoza and Gonzales have built their respective houses thereon which were made of cement-concrete materials with a pump to boot; (7) no one has been residing on the controverted lot except Mendoza and Gonzales.<sup>[28]</sup>

On March 30, 1993, Mendoza and Gonzales filed an amended protest alleging that Mendoza was in actual possession and cultivation of four (4) hectares, more or less; that Gonzales was in actual possession and cultivation of two (2) hectares, more or less; and that Procopio Vallega was in actual possession and cultivation of the rest of the land.<sup>[29]</sup> Also, the rice paddies and "pilapiles" had already been existing in the land even before Valte filed her free patent application,<sup>[30]</sup> and the District Land Officer failed to exercise due diligence in its evaluation and mistakenly recommended the grant of Valte's application that was based on fraud and misrepresentation.<sup>[31]</sup>

The Department of Environment and Natural Resources Secretary, in the Decision<sup>[32]</sup> dated January 20, 1994, ruled in favor of Mendoza and Gonzales:

**WHEREFORE**, foregoing premises duly considered, the Regional Executive Director (RED) of DENR Region III is hereby directed to cause the **REVERSION** of the area covered by Original Certificate of Title (OCT) No. P-10119 of Reynosa Valte, through the Office of the Solicitor General in accordance with the pertinent provisions of Commonwealth Act (CA) No. 141, as amended. Claimants-Protestants Pedro Mendoza and Jose Gonzales and Procopio Vallega are hereby **ADJUDGED** to have the preferential right over the land in question pro rata to their area of actual occupation. Hence, they are GIVEN SIXTY (60) DAYS from the termination of the reversion proceedings to FILE their respective appropriate public land applications.

**SO ORDERED.**<sup>[33]</sup>

On March 20, 1994, Valte appealed before the Office of the President, raising violation of due process since the Department of Environment and Natural Resources' investigation was conducted ex parte without giving her the opportunity to be heard.<sup>[34]</sup>

The Office of the President, in its Decision dated February 10, 1997, set aside the January 20, 1994 Decision and ordered "the conduct of another formal hearing and thorough investigation of the case."<sup>[35]</sup>

Mendoza and Gonzales reiterated their claim of ownership and possession of the land since 1930 and the nullity of Valte's title for having been acquired through fraudulent means.<sup>[36]</sup> Their evidence was grounded mostly on the Department of Environment and Natural Resources' investigation results consisting of the *Sinumpaang Salaysay* of the Barangay Captain and officials and the statements of their two (2) witnesses.<sup>[37]</sup>

Valte countered that her father bought the land in 1941, and her mother ceded the land to her in 1978.<sup>[38]</sup> She then processed titling in her name.<sup>[39]</sup> She, through her administrator, Pacifico M. Vizmonte, maintained that Mendoza and Gonzales were tenants with no preferential right over the land.<sup>[40]</sup> She presented her free patent application and the Joint Affidavit of Procopio Vallega and Mendoza where Mendoza recognized Valte's exclusive claim and possession over the land.<sup>[41]</sup>

The Department of Environment and Natural Resources Secretary,<sup>[42]</sup> in the Decision dated March 11, 1999, found Mendoza and Gonzales to be mere tenants of the land<sup>[43]</sup> and dismissed the protest:

In view on the foregoing, the Protest of Jose Gonzales and Pedro Mendoza against Free Patent Application No. (III-2) 124061 and Original Certificate of Title No. P-10119 in the name of Reynosa Valte is hereby dismissed for lack of merit.

**SO ORDERED.**<sup>[44]</sup>

The Office of the President, in its Decision<sup>[45]</sup> dated April 26, 2000, reversed the March 11, 1999 Decision and reinstated the January 20, 1994. It denied reconsideration.<sup>[46]</sup> The Decision's fallo reads:

**WHEREFORE**, premises considered, the questioned decision dated March 11, 1999 is hereby **REVERSED** and **SET ASIDE**. The decision dated January 20, 1994 is hereby **REINSTATED** directing the Department of Environment and Natural Resources, through the Solicitor General, to cause the reversion of the area covered by Original Certificate of Title No. P-10119 of Reynosa Valte. Appellants Mendoza and Gonzales are hereby adjudged to have the preferential right over the subject land, *pro-rata* to their area of actual occupation, entitling them to file their respective public land applications within sixty (60) days after the termination of the reversion proceedings.

**SO ORDERED.**<sup>[47]</sup>

The Court of Appeals, in its September 8, 2000 Resolution, dismissed Valte's Petition for Review due to several defects, such as incomplete certification of non-forum shopping, failure to attach registry receipts in the affidavit of service, and lack of certified true copies of the material portions of the record referred to in the Petition.<sup>[48]</sup> It also denied reconsideration, which prompted Valte to file a Petition for Certiorari before this court.<sup>[49]</sup>

This court denied Valte's Petition due to late filing, lack of certification against forum shopping, and failure to sufficiently show that the Court of Appeals committed any reversible error. However, on reconsideration, this court reinstated Valte's Petition.<sup>[50]</sup> Respondents filed their Comment, and the parties filed their respective Memoranda. This court, in its Decision<sup>[51]</sup> dated June 29, 2004, remanded the case to the Court of Appeals for decision on the merits:

Considering that the resolution of the controversy between the parties revolves admittedly on factual issues and that these issues involve the regularity and legality of the disposition under the Public Land Law of 7.2293 hectares of public land to petitioner, this Court relaxes the rule on certification on forum shopping and directs the remand of the case to the Court of Appeals for decision on the merits.

**WHEREFORE**, the assailed Court of Appeals Resolutions of September 8, 2000 and January 12, 2001 are hereby SET ASIDE.

Let the case be REMANDED to the Court of Appeals for decision on the merits.

**SO ORDERED.**<sup>[52]</sup>

The Court of Appeals, in its Decision<sup>[53]</sup> dated December 28, 2005, reversed the Office of the President Decision and reinstated the March 11, 1999 Decision. It also denied reconsideration.<sup>[54]</sup> The Decision's fallo reads:

**WHEREFORE**, premises considered, the Decision dated April 26, 2000 and Resolution dated July 14, 2000 of the Office of the President in OP Case No. 5942 is **REVERSED** and **SET ASIDE**. The decision dated March 11, 1999 of the Secretary of the Department of Environment and Natural Resources in DENR Case No. 7480 is hereby **REINSTATED**.

**SO ORDERED.**<sup>[55]</sup>

Hence, Mendoza and Gonzales filed this Petition.

Mendoza and Gonzales submit that Valte employed fraud, misrepresentation, and connivance in her free patent application.<sup>[56]</sup> Lot 1035-B only has two (2) hectares, yet her application stated an area of 7.2255 hectares.<sup>[57]</sup> The Technical Description of Lot 1035-B in OCTNo. P-10119 shows that Lot 103 5-A covering three (3) hectares is under free patent application by Gonzales.<sup>[58]</sup> The Department of Agrarian Reform [Municipal Agrarian Reform Office] Certification states that Mendoza and Gonzales are tenants of a combined area of 2.6367 hectares, yet this does not explain Valte's claim over the rest of the 7.2255 hectares.<sup>[59]</sup> Valte does not possess nor cultivate the land,<sup>[60]</sup> and her employment of tenants over 2.6367 hectares violates Presidential Decree No. 152.<sup>[61]</sup>

In her Comment, Valte counters that Mendoza and Gonzales cannot raise for the first time on appeal the issue arising from Gonzales' claim over Lot 1035-A with three (3) hectares.<sup>[62]</sup> Valte submits that "[i]f only petitioners raised this issue below, then respondent could have proven that petitioner Jose Gonzales' [three-hectare] land known as Lot 1035-A is distinct and separate from respondents' 7.2255 hectares land known as Lot 1035-B."<sup>[63]</sup> If Gonzales indeed owns two (2) hectares of Valte's land, then he should have included this in his free patent application for Lot 1035-A filed even before Valte's application.<sup>[64]</sup> Mendoza and Gonzales' tardiness in raising this issue and their inconsistent claims regarding land area show bad faith.<sup>[65]</sup> Valte claims that the argument that Lot 1035-B should be