

## THIRD DIVISION

**[ G.R. NO. 154407, February 14, 2005 ]**

**MA. CRISTINA G. CORTEZ-ESTRADA, PETITIONER, VS. HEIRS OF DOMINGO SAMUT/ANTONIA SAMUT REPRESENTED BY LETICIA SAMUT, CHITO SINGSON AND DIRECTOR OF LANDS, RESPONDENTS.**

### D E C I S I O N

**CARPIO-MORALES, J.:**

Before this Court is a petition for review on certiorari seeking to reverse the April 12, 2002 Decision<sup>[1]</sup> and July 23, 2002 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 68277 dismissing the petition for certiorari<sup>[3]</sup> of herein petitioner Ma. Cristina Cortez-Estrada (petitioner) and denying her motion for reconsideration, <sup>[4]</sup> respectively.

Petitioner's father Emiliano Cortez (Cortez) filed on August 21, 1953 a Free Patent Application with the Bureau of Lands (Bureau) covering two parcels of land identified as Lot 4602 with an area of 4.467 hectares and Lot 4603 with an area of 6.3809 hectares, both of Cadastre No. 210, situated at Libertad, Echague, Isabela. The application was approved on December 5, 1955 by the Bureau which issued Cortez Free Patent No. V-17515.

Original Certificate of Title (OCT) No. P-9148 covering the subject properties was subsequently issued in Cortez's name by the local Register of Deeds.

On November 6, 1956, Domingo Samut (Samut), represented by Antonia Samut, filed before the Bureau a Protest<sup>[5]</sup> alleging that he has since the Second World War been in possession of the properties which he converted into a flourishing rice, tobacco and corn field and introduced other improvements thereon such as a residential house, a well and rice paddies.

Acting on Samut's claim that Cortez obtained the patent and title over the properties through fraud, deceit and misrepresentation in violation of the Public Land Law, the Legal Division of the Bureau directed the District Land Officer of Ilagan, Isabela to conduct an investigation on the grant of Cortez's patent and title.

After the demise of Cortez, OCT No. P-9148 was on July 2, 1969 cancelled and Transfer Certificate of Title (TCT) No. T-42959 was issued in the name of his widow, Antonia Cortez (Antonia).

Antonia subsequently died intestate and is survived by her children including herein petitioner.

By Order<sup>[6]</sup> of January 6, 1997, Regional Executive Director Leonardo A. Paat of the Bureau recommended that

. . . proper steps be now taken in court for the **cancellation** of Patent No. V-17515 and the corresponding Original Certificate No. P-9148, now Transfer Certifiante (sic) Title No. T-42959 and for the **reversion** of the land covered thereby to the state. After the cancellation of said patent and title of Emiliano Cortez, the heirs of Domingo Samut are hereby directed to file the appropriate public land application covering Lot Nos. 4602 and 4603, Cad. 240 situated at Libertad, Echague, Isabela.<sup>[7]</sup> (Emphasis and underscoring supplied)

In arriving at his recommendation, the Regional Executive Director ratiocinated:

Evidence shows that the herein claimants-protestants are the actual occupants over the land in dispute. They have introduced considerable improvements, established their respective houses with strong materials which serves (sic) as their family residence since the outbreak of World War II. This Office will not give credence with (sic) the view of the herein respondent that . . . claimants-protestants [were mere] tenants by virtue of a contract of lease executed by Emiliano Cortez as lessor, and Joaquin Samut as lessee whose validity is doubtful considering that Joaquin Samut denied having executed such contract. It appears also that his (lessee) signature appearing in the contract is not his signature as compared to his genuine signature given by him during the investigation, hence, it is a forged signature. (Exhibit "J" for the protestant and Exhibit "2" for the respondent.) Besides, Joaquin Samut, the alleged lessee has no authority to enter into said contract in behalf of Domingo Samut, the original possessor over the lot in dispute because nowhere (sic) in the records would show that he was authorized to enter into said contract.

Granting arguendo for the sake of arguments (sic), that herein claimants-protestants are merely tenants of the respondent. It holds no weight in favor of herein respondent, instead it is an admission on his part that he is not the actual occupants (sic) over the lots in dispute, contrary to the narration of facts stated in his patent application which led for (sic) the approval of said application. Hence, a clear misrepresentation of facts and in blatant violation of the Public Land Law. Had he disclosed the true facts, the then Director of Lands, Zoilo Castrillo was not (sic) misled in approving the application.

Presidential Decree No. 152 categorically prohibits the employment or use of share tenants in complying with the requirements of law regarding entry, occupation, improvement and cultivation [of] public lands, amending (sic) for the purpose certain provisions of Commonwealth Act as amended, otherwise known as the Public Land Act. Section 2 of said law is clear and unequivocal:

**"Section 2. The employment or use of share tenants in whatever form for purposes of complying with the requirements of the Public Land Act regarding entry, occupation, improvements, and cultivation is hereby prohibited. Any violation hereof shall constitute a**

**ground for the denial of the application, cancellation of the grant and forfeiture of improvements on the land in favor of the government.”**

**(P.D. 152 Section 2)**

There is no dispute that the herein respondent clearly violated the aforecited provision of law which will be a ground for the cancellation of his patent and title over the land in dispute. He misrepresented facts in his application thru deceit and fraud by stating on said application that he is the actual occupants (sic), to the damage and prejudice of the true occupants, herein claimants-protestants who have already acquired vested rights over the land in dispute by virtue of their occupations (sic) over said land for more than 30 years. Well settled is the rule that occupation and cultivation for more than 30 years by an applicant and his predecessors-in-interest, vest title on such applicant so as to segregate the land from the mass of public land (Republic vs. Court of Appeals 235 SCRA 567).

Since misrepresentation and fraud w[ere] clearly established on the part of the respondent which led to the approval of his patent application and with (sic) the issuance of corresponding title over the lot in dispute, it is but proper that said patent and title be cancelled under Section 91, Commonwealth Act 141, before ordinary court of competent jurisdiction over the land in question.<sup>[8]</sup> (Emphasis and underscoring supplied)

No appeal from the above Order of Director Paat was filed.

The State, represented by the Director of Lands, later filed a complaint dated January 3, 2000,<sup>[9]</sup> for Reversion of Land to Public Domain, before the Regional Trial Court (RTC) of Echague, Isabela, docketed as Civil Case No. 533, praying that judgment be rendered: (1) declaring null and void Cortez's Free Patent and his OCT No. P-9148 which had been cancelled by TCT No. T-42959 in the name of his wife Antonia; (2) ordering the Register of Deeds to cancel Antonia's TCT No. T-42959; and (3) ordering the reversion of the properties to the State.<sup>[10]</sup>

The complaint alleged that Cortez deliberately made fraudulent representations in his free patent application, hence, the patent and title granted to him should *ipso facto* be cancelled pursuant to Section 91 of Commonwealth Act No. 141.<sup>[11]</sup>

In her Answer with Third Party Complaint,<sup>[12]</sup> petitioner averred that herein respondent Samut cannot legally acquire the properties by possessory rights despite the alleged period of occupation, for Cortez and Joaquin Samut (Joaquin), son of Domingo Samut, executed a Contract of Lease dated June 21, 1961 under which Joaquin, as lessee, agreed to plant agricultural crops on the properties and deliver to Cortez, as lessor, twenty (20%) percent of the crops harvested every year.

Petitioner likewise averred that upon investigation, she discovered that a portion (63,000 square meters) of the property was sold by the heirs of Samut to herein respondent Chito Singson who subsequently introduced improvements thereon, to the damage and prejudice of the heirs of Cortez.

Additionally, petitioner claimed that the investigation conducted by the Bureau is illegal and without legal force and effect as the same was conducted 18 years after the issuance of OCT No. P-9148 and that the right of reversion had already prescribed, the case for the purpose having been filed by the State more than 40 years after the grant of patent to Cortez.

Petitioner then prayed for the issuance of a temporary restraining order and/or a writ of preliminary injunction to prevent respondents Samut and Singson from selling or cultivating the properties or introducing any improvements thereon.

By Order<sup>[13]</sup> of July 10, 2001, Branch 24 of the Isabela RTC to which the case was raffled denied petitioner's plea for injunctive relief, reasoning as follows:

Going over the allegations of the Third-Party Complaint and the Answer thereto filed by defendant Chito Singson, the Court believes that it would be better to maintain status quo. "The reason for the ruling is that **before the issue of ownership is determined in the light of the evidence presented,** justice and equity demand that the parties be maintained in their status quo so that no advantage may be given to one to the prejudice of the other" (Calo vs. Ortega, et al., L-4673, Jan. 25, 1952, cited in Moran Rules of Court, Vol. 3, 1973 Ed.).<sup>[14]</sup> (Underscoring supplied)

Petitioner's Motion for Reconsideration<sup>[15]</sup> of the July 10, 2001 Order was denied by the trial court in this wise:

The **third party defendants were admittedly in possession** of the land in question prior to the filing of this case and therefore status quo should be maintained while the case is pending or before the issue of ownership is determined. Thus, "**the writ of injunction**" is not, as a general rule, proper where its purpose is to take property out of the possession or control of one person and place the same in the hands of another, whose title has not clearly been established by law (pp. 77 & 78, Moran, comments on The Rules of Court, vol. 3, 1970 Ed.).<sup>[16]</sup> (Emphasis and underscoring supplied)

Petitioner, "as surviving heir and with authority given to her by [her siblings]," thereupon filed a petition for certiorari before the CA, praying that: a) a temporary restraining order be issued restraining the RTC from conducting trial on the reversion case filed by the State and enjoining respondents Samut and Singson from selling the properties or cultivating and harvesting the produce therefrom and b) after due hearing, the temporary restraining order against private respondents be made permanent.<sup>[17]</sup>

Before the appellate court, petitioner posited that to allow respondents Samut et al. to enjoy possession of the properties before the RTC can decide the validity of OCT No. P-9148 violates the value and integrity of the title without due process of law, hence, the denial by the RTC of her prayer for injunctive relief constitutes grave abuse of discretion causing great injustice and irreparable damage to her and her co-heirs.

By Decision of April 12, 2001, the appellate court found petitioner's petition dismissible for procedural infirmity, she having failed to append her Affidavit in support of her plea for injunctive relief and the Contract of Lease purportedly executed by Joaquin and Cortez, in contravention of Section 1 of Rule 65<sup>[18]</sup> in relation to Section 3 of Rule 46 of the Rules of Court.<sup>[19]</sup>

On the merits of the petition, the appellate court found the petition dismissible just the same, ratiocinating as follows:

. . . In the present recourse, the "***status quo ante litem***" of the Petitioners and the Private Respondents, *vis-à-vis* the subject property, before the Petitioners filed their "**Third-Party Complaint**" against the Private Respondents, was that: (a) the Private Respondents were in actual possession of the property; (b) they cultivated the property and reaped the produce therefrom; (c) the Petitioners were not in actual and physical possession of the property; (d) by their own admission, the Petitioners [were] not given, by the Private Respondents, any share in the produce from the property. The Petitioners sought, before the Respondent Court to alter or change the ***status quo*** of the parties by praying that the Private Respondents, ***via*** an injunctive writ, be ousted from their possession of the property and enjoined from cultivating the same and reaping the produce therefrom and that, consequently, the Petitioners be placed in actual and physical possession of the property. What the Petitioners sought, from the Respondent Court, was both a preliminary prohibitory injunction and a writ of preliminary mandatory injunction and, consequently, the alteration of the ***status quo*** of the parties before trial was terminated.

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More, while it may be true that Original Certificate of Title No. 9148 was issued to and under the name of Emiliano Cortez and, by Transfer Certificate of Title No. 42959, under the name of Antonia Cortez, however, it cannot thereby be found and declared that the Petitioners were entitled, as a matter of right, to injunctive relief. In the light of the Order of the Regional Executive Director, the "**Free Patent**" executed in favor of Emiliano Cortez and said title issued to and under his name were placed, **at the very least, in doubt.** Aside from the Private Respondents asserting ownership over the property, the State, likewise, sought the reversion of the property to the State.

It bears stressing that the threshold issue before the Respondent Court was the validity/nullity of the "Free Patent" executed in favor of Emiliano Cortez and of Original Certificate of Title No. 9148 issued to and under the name of Emiliano Cortez. For the Respondent Court to issue a writ of preliminary injunction, he would, in effect, be resolving the merits of the very issue before the Respondent Court. . . .

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It was thus imperative for the Respondent Court to maintain the ***status quo*** of the parties, ***ante litem***, pending resolution of the contrasting