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# SECOND DIVISION

# [ G.R. No. 120004, December 27, 2002 ]

## ILUMINADA DE GUZMAN, PETITIONER, VS. COURT OF APPEALS AND JORGE ESGUERRA, RESPONDENTS.

## D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals dated February 28, 1995 which set aside the Decision[2] dated September 2, 1992 of the Regional Trial Court of Malolos, Bulacan (Branch 16) in Civil Case No. 725-M-89, dismissing private respondent's complaint.

Records show that on December 12, 1989, private respondent Jorge Esguerra filed a complaint praying for the declaration of nullity of a Free Patent in the name of petitioner Iluminada de Guzman. Esguerra alleged that he is the owner of Lot 3308-B located at Matiktik, Norzagaray, Bulacan, covered by TCT No. T-1685-P (M) of the Registry of Deeds of Bulacan, with an approximate area of 47,000 square meters; that he learned in 1989 that the said parcel of land was being offered for sale by de Guzman to Hi-Cement Corporation; that he discovered that Felisa Maningas was issued Free Patent No. 575674, now in the name of Iluminada de Guzman, over a parcel of land located at Gidgid, Norzagaray, Bulacan, with an area of 20.5631 hectares, described in Psu-216349; that in a letter dated November 23, 1989, he demanded that the portion of his property which has been encroached upon and included in de Guzman's Free Patent be excluded but de Guzman refused to do so. [3]

In her Answer filed on February 21, 1990, de Guzman claimed that she is the lawful owner and in actual possession of the parcel of land in litigation which she bought from the former possessor, Felisa Maningas, while the latter's free patent application was still pending with the Bureau of Lands in 1965; that she has been in possession of the property publicly, peacefully, continuously and adversely in the concept of owner for a period of fifteen (15) years from the date OCT No. P-3876 was issued and registered in her name. She further alleged that it is only the government that can question the validity of the grant of the free patent to her.[4]

On March 23, 1990, Esguerra amended his complaint to implead Hi-Cement Corporation as a defendant inasmuch as the latter was hauling marble from the subject land. Esguerra prayed that said defendant be ordered to desist from hauling marble from the subject land, account for the marble hauled and pay the plaintiff.[5]

In its Answer filed on July 9, 1990, Hi-Cement Corporation prayed for dismissal of the complaint against it but manifested that it is willing to pay royalty or compensation to whoever is adjudged by the court as the rightful owner.[6]

Taking into consideration that the principal issue in the case is whether or not the property of Esguerra described as Lot 3308-B covered by TCT No. T-1685-P (M) overlapped the property covered by Free Patent No. 57-5674 (OCT No. P-3876) issued in favor of Felisa Maningas, the trial court, in an Order dated August 16, 1990, appointed the Regional Director, Region III of the Bureau of Lands, San Fernando, Pampanga, or his duly authorized representative, as commissioner to resurvey the disputed properties for the purpose of relocating their correct boundaries and submit a report thereon.[7] The same order was reiterated on September 24, 1990.[8]

In pursuance of the court order, a relocation survey was conducted, the result of which revealed that 38,461 square meters of Lot 3308-B, covered by TCT No. T-1685-P (M) of Esguerra, overlapped PSU-216349, covered by P-3876 of de Guzman.[9]

Trial on the merits ensued with the testimonies of Engr. Librado R. Gellez[10] and Engr. Agaton Manga of the Bureau of Lands;[11] Lowell Esguerra,[12] a son of plaintiff Esguerra; Cornelio Lucas,[13] Esguerra's predecessor-in-interest; Felisa Maningas Vda. de Lucas,[14] de Guzman's predecessor-in-interest; defendant Iluminada de Guzman[15] herself; and, Engr. Agapito Llose of defendant Hi-Cement Corporation.[16]

On September 2, 1992, the trial court rendered a Decision dismissing the complaint, with the following observations:

> "Based on evidence adduced by both parties, the respective properties of plaintiff and defendant de Guzman were originally covered by free patent. This is, however, the only worthwhile similarity. The notable differences are the following: Plaintiff's free patent was based on a cadastral survey while that of defendant was on a private land survey; the survey for defendant's predecessor was earlier made on January 23, 1965 while that for plaintiff was on February 15-16, 1965. These differences are vital in the resolution of the issues specially after due consideration is made on the findings of plaintiff's witnesses Librado Gellez and Agaton Manga.
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> "The unrebutted finding of Librado Gellez is that 'portion of lot 3308-B overlapped Psu-216349 with an approximate area of 38.461 sq. meter' (Exh. '2'). Lot 3308-B is the property of plaintiff while the land subject of Psu-216349 in that of defendant de Guzman. Further, the unrebutted testimony of Agaton Manga is that the survey of the property of plaintiff was on February 15-16, 1965 and was approved on September 25, 1965. On the other hand, the land of defendant de Guzman was earlier surveyed on January 23, 1965 and was approved on July 13, 1965. This becomes very significant in determining which survey should be respected and according to Manga, the Bureau of Lands in cases like this respects the first or older survey. In instant case, the survey of defendant's property is given recognition over the latter survey of the property of plaintiff."[17]

The trial court held that there is no sufficient evidence to show that the property of de Guzman has encroached on the property of Esguerra.[18] Furthermore, it declared that Esguerra had no right to bring an action to annul the free patent of de Guzman since this can only be done by the government which granted and issued the same.[19]

On appeal, the Court of Appeals reversed the trial court, disposing as follows:

> "WHEREFORE, premises considered, the decision appealed from is REVERSED and SET ASIDE and another judgment is hereby rendered:
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> "1. Declaring defendant-appellee's OCT No. P-3876 (Exh. B) null and void insofar as the disputed area of 38,641 square meters, which is part of Lot 3308-B, covered by TCT No. 1685-p (Exh. C) in the name of plaintiff-appellant;
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> "2. Ordering defendant-appellee to cause the segregation, at his expense, of the disputed area of 38,641 square meters from OCT No. P-3876;
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> "3. Ordering defendant-appellee to surrender her owner's copy of OCT No. P-3876 to the Register of Deeds of Bulacan who is in turn ordered to exclude from said OCT No. P-3876 the disputed area of 38,641 square meters included in plaintiff-appellant's TCT No. T-1685;
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> "4. Ordering defendant-appellee to immediately vacate and surrender to plaintiff-appellant possession of the disputed area of 38,641 square meters;
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> "5. Ordering defendant-appellee Hi-Cement Corporation to immediately cease and desist from quarrying or extracting marble from the disputed area;
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> "6. Ordering defendant-appellee Hi-Cement Corporation to make an accounting of the compensation or royalty it has paid to defendant-appellee Iluminada de Guzman for marbles quarried from the disputed area of 38, 451 square meters from the time of the filing of the amended complaint on March 23, 1990.
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> "7. Ordering and sentencing defendant-appellee Iluminada de Guzman to pay and turn over to plaintiff-appellant all such amounts that she has received from her co-defendant Hi-Cement Corporation as compensation or royalty for marbles extracted or quarried from the disputed area of 38,451 square meters beginning March 23, 1990; and
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> "8. Ordering defendant-appellee Iluminada de Guzman to pay the costs.
>
> "SO ORDERED."[20]

The appellate court ruled that the trial court erred when it decided the case on the basis of priority of survey, stating that "[a] survey does not establish title or ownership. At most it establishes a claim. A decision on the basis of priority in the survey would at best decide who first laid claim to the land,"[21] applying *Legarda and Prieto vs. Saleeby*,[22] which held:

> "[I]n a case where two certificates of title include or cover the same land, the earlier in date must prevail as between the original parties, whether the land comprised in the latter certificate be wholly or in part comprised in the earlier certificate. In successive registrations where more than one certificate is issued in respect of a particular interest in land, the person holding under the prior certificate is entitled to the land as against the person who obtained the second certificate".[23]

De Guzman's motion for reconsideration[24] having been denied by the Court of Appeals in its Resolution[25] of April 21, 1995, de Guzman filed the petition at bar anchored on two (2) assigned errors, to wit:

> "A. THE RATIOCINATION OF PUBLIC RESPONDENT IN ITS DECISION DATED 28 FEBRUARY 1995 CONTRAVENES THE LAW AND THE JURISPRUDENCE APPLICABLE TO THE CASE AT BAR.
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> "B. THE DECISION DATED 28 FEBRUARY 1995 OF THE PUBLIC RESPONDENT IS NOT IN ACCORD WITH THE UNCONTROVERTED PROOF AND EVIDENCE ESTABLISHED IN THE TRIAL COURT AS IT OVERLOOKED THE FACT THAT PETITIONER THROUGH HER PREDECESSORS-IN-INTEREST HAD BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION AND OCCUPATION OF THE DISPUTED PARCEL OF LAND CONSISTING OF 38,461 SQUARE METERS FOR MORE THAN THIRTY (30) YEARS."[26]

Prefatorily, we note that while Esguerra's complaint prays for the annulment of the Free Patent in de Guzman's name, it is in reality an action for reconveyance and not one for reversion, as erroneously observed by the trial court, since the ultimate relief sought was for de Guzman to return or reconvey the 38,461 square meter portion of Lot No. 3308-B, covered by TCT No. T-1685-P (M) of Esguerra, allegedly encroached or overlapped by PSU-216349, covered by OCT No. P-3876 of de Guzman. The essence of an action for reconveyance is that the decree of registration is respected as incontrovertible but what is sought instead is the transfer of the property which has been wrongfully or erroneously registered in another person's name, to its rightful owner or to one with a better right.[27]

Conversely, reversion is an action where the ultimate relief sought is to revert land back to the government under the Regalian doctrine.[28] Actions for reversion should be filed by the Office of the Solicitor General at the behest of the Director of Lands[29] since the land title subject of the action originated from a grant by the government, thus, their cancellation is a matter between the grantor and the grantee.[30]

In the Petition before us, the assigned errors essentially involve questions of fact. Petitioner de Guzman's foremost contention is anchored on the premise that the respondent appellate court disregarded an alleged undisputed factual matter, which is, that "Mariano Maningas and Feliza Maningas, who are the predecessors-in-interest of petitioner, had been in open, continuous, exclusive, and notorious possession and occupation of that parcel of land with an area of 20.5631 hectares, situated at Sitio Gidgid, Barrio Matictic, Norzagaray, Bulacan, for a period of more than thirty (30) years, and that the controversial area of 38,641 square meters being claimed by private respondent is included in the 20.5631 hectares."[31]

A determination of the validity of petitioner's claim of prior possession and the issues arising therefrom necessitates a review of the factual findings of the trial court and the respondent appellate court. However, we are not a trier of facts; the resolution of factual issues being the function of lower courts.[32] In petitions such as the one at bar, pure questions of fact may not be the proper subject of appeal by certiorari under Rule 45 of the Revised Rules of Court as this mode of appeal is generally confined to questions of law.[33] When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

> (1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;
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> (2) When the inference made is manifestly mistaken, absurd or impossible;
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> (3) Where there is a grave abuse of discretion;
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> (4) When the judgment is based on a misapprehension of facts;
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> (5) When the findings of fact are conflicting;
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> (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
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> (7) When the findings are contrary to those of the trial court;
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> (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
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> (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and
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> (10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[34]

Petitioner failed to clearly show that this case falls within any of the above exceptions.

We find the petition devoid of merit.

OCT No. P-3876 issued in favor of petitioner Iluminda de Guzman cannot prevail over OCT No. P-1073 issued in the name of Cornelio Lucas, now covered by TCT No. T-1685-P (M) in the name of private respondent Jorge Esguerra.

OCT No. P-1073 was transcribed in the Registration Book of the Office of the Register of Deeds of the Province of Bulacan and issued on May 12, 1966 pursuant to Free Patent No. 312027 granted on April 27, 1966 by the President through Fernando Lopez, then Secretary of Agriculture and Natural Resources.[35] The property covered by the said Free Patent OCT is described as Lot. No. 3308, Cad. 350 located in Gidgid, Matictic, Norzagaray, Bulacan and the technical description thereof appears on page A of the OCT. This description states that the lot "was