

## SECOND DIVISION

**[ G.R. No. 94524, September 10, 1998 ]**

**SPS. FEDERICO L. REYES AND MAXIMA DELA PAZ; SPS. SILVINA L. REYES AND CESARIO SANTIAGO; SPS. VICENTA L. REYES AND EMILIO ESTEBAN; SPS. IRENEO L. REYES AND JOSEFINA DEL FIERRO; SPS. LEOVIGILDO L. REYES AND JOSEFINA OCHOA; AND FELIX L. REYES PETITIONERS, VS. COURT OF APPEALS, AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**MARTINEZ, J.:**

This petition for review on certiorari assails the Decision<sup>[1]</sup> of the respondent Court of Appeals dated April 19, 1990, in CA-G.R. CV No. 14600, the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, the decision of the court a quo dated April 17, 1986 is hereby SET ASIDE and another is rendered:

a) Declaring Original Certificate of Title No. 727 in the name of the heirs of Antonia Labalan as null and void and all other derivative titles, if any there be, are hereby ordered cancelled and

b) Declaring that the land covered by the cancelled certificate of title be reverted to the State including whatever improvements introduced by the defendants which are ordered forfeited in favor of the Republic of the Philippines."<sup>[2]</sup>

The factual backdrop of the case, as accurately summarized by the respondent court in the assailed decision, is as follows:

"Antonia Labalan filed with the Bureau of Lands Homestead Application No. 214067 on February 17, 1936 (Exh. '2'). The same was approved on April 23, 1937. On December 28, 1937 the applicant died survived by her children who are the defendants in this case (Exh. '5'). Before the application of the homestead patent by Antonia Labalan, she was already residing in the said place and made improvements on the land. After her death, defendant Federico Reyes, one of her children continued to reside therein. After the land was surveyed, Federico Reyes filed the required Notice of Intention to make Final Proof (Exh. "3"). On January 2, 1941, Homestead Patent No. 64863 was issued in the name of the heirs of Antonia Labalan and the corresponding Original Certificate of Title No. 727 was issued (Exh. '1').

"SOMETIME in October 1968, a certain Mary Agnes Burns, a resident of Olongapo City, filed with the Bureau of Lands a Miscellaneous Sales

Application (Exhs. 'O,' 'O-1') over a 50-hectares property she allegedly purchased from Salvador Moreno on November 23, 1955 (Exh. 'I') located in Matain, Subic, Zambales. Included thereat is the property covered by O.C.T. No. 727. She allegedly made improvements on the land. She likewise constructed roads thereon after securing the necessary mayor's permit (Exhs. 'K,' 'K-1,' 'K-2'). Declaring the property in her own name, she also paid the yearly taxes from 1965-1978 (Exhs. 'M' to 'M-6') and from 1979-1982 (Exh. 'N'). Notwithstanding the land she bought was still within the Naval Reservation Area and therefore part of the forest zone, Mary Agnes Burns nevertheless took the risk of occupying and improving the land after verifying that the same would be released for private disposition.

"Acting on Mary Agnes Burns' request for survey authority, the Bureau of Lands ordered Land Inspector Mateo D. Sicat to inspect and survey the property. In the report dated December 23, 1968 (Exh. 'P'), the latter favorably recommended the survey endorsed by District Land Officer Rodolfo Paelmo on January 3, 1969 (Exh. 'P-1'). Mary Agnes Burns also learned from Sicat's report that the titled property consisting of 20 hectares adjacent to her property is owned by Natalia dela Paz. Knowing that said property is within the forest zone hence inalienable prior to January 31, 1961, she reported the matter to the Solicitor General who thereafter had the title cancelled and the land reverted to the public domain on the basis of the Decision dated November 9, 1981 in Civil Case No. 299-2-0 entitled Republic of the Philippines vs. Fabian Arcega and Natalia dela Paz (Exhs. 'Q' to 'Q-4').

"IN 1969, alleging that Mary Agnes Burns illegally and forcibly entered the defendant's titled property consisting of 6,5030 hectares, the defendants filed a Forcible Entry Case against the former with four (4) others in the Municipal Court of Subic, Zambales. Dismissed for lack of jurisdiction, herein defendants (plaintiffs in the Forcible Entry Case) elevated the case to the then Court of First Instance of Zambales and Olongapo City, Branch III, and docketed as Civil Case No. 765-0. In the decision dated April 17, 1986, the heirs of Antonia Labalan were declared as the registered owner of the land covered by Original Certificate No. 727 and therefore entitled to the possession of the same. (Exh. '8').

"IN 1980, Mary Agnes Burns filed a petition with the Solicitor General for the cancellation of Original Certificate of Title No. 727 on the ground that the land covered thereby is within the forest zone. The petition was referred by the Solicitor General to the Bureau of Lands for investigation (Exh. "A"). Lands investigator Guillermo Venegas conducted the investigation and submitted his report (Exh. 'B') and the supplemental report (Exh. 'B-1'). Likewise, Mary Agnes Burns went to the District Forester and requested the survey of the said land covered by O.C.T. No. 727 and Assistant District Forester Marceliano Pobre made the survey. By virtue of the reports submitted by the land inspectors and the certification issued by district Forester Rogelio Delgado, Certification No. 65, showing that the land in question was found to be within the alienable and disposable land only on January 31, 1961 per LCM 2427.

That the area covered by O.C.T. No. 727 and the adjoining owners of the land are still forest zone from 1941 to 1960."<sup>[3]</sup>

On the basis of the reports submitted by the land inspectors and the Certification No. 65 issued by District Forester Delgado, the Solicitor General in behalf of the Republic of the Philippines (hereafter "Republic") filed on October 23, 1981 a complaint<sup>[4]</sup> for "Cancellation of Title and Reversion" against herein petitioners before the Court of First Instance (now Regional Trial Court) of Olongapo City docketed as Civil Case No. 3271-0.

The complaint was dismissed by the trial court on April 17, 1986 on the ground that the Republic failed to prove its allegation that the subject land was not yet alienable and disposable at the time the Bureau of Lands granted petitioners' predecessor-in-interest, Antonia Labalan, a homestead patent. The trial court ratiocinated in this wise:

"It would be the height of injustice if the Court will countenance the annulment of the homestead patent granted the defendants forty five (45) years ago and the cancellation of OCT No. 727 issued way back in 1941 simply on the unsubstantiated basis that the homestead patent and the title were granted and issued when the land was still within the forest zone. Even if it were true as contended by the plaintiff that at the time of the granting of patent and the issuance of OCT No. 727 in 1941 to the defendants, the land was not yet released from the forest zone and therefore not yet disposable and alienable, although Certification No. 282 of District Forester Rogelio Delgado (Exh. 10) states otherwise, yet such error committed by the government thru the Bureau of Land in granting the homestead patent to a land not yet alienable and disposable, was rectified by the same government thru the then Bureau of Forestry when it released the said land covered by the homestead patent from the forest zone and proclaimed it alienable and disposable in 1961 as per Certification No. 65 (Exh. 'C'). If there was an error committed by the Bureau of Land in granting the homestead patent of a land not yet disposable at that time, the patentees should not be made to suffer the consequence, it appearing that they acted in utmost (sic) good faith and complied with all the requirements of the Public Land Laws in their acquisition of the homestead patent. Equity demands that the government must not annul and cancel the homestead patent issued in 1941 even if the land was not yet alienable and disposable then, for after all the said land became alienable and disposable in 1961."<sup>[5]</sup>

The Republic appealed<sup>[6]</sup> to the respondent court arguing that the trial court erred in ruling that: (a) Homestead Patent No. 64863 and the corresponding OCT No. 727 issued to petitioners (appellees below) are valid and binding; (b) the petitioners have complied with all the requirements of cultivation and occupation as required by the Public Land Law; (c) the subsequent release of the land as alienable and disposable in 1961 rectified or validated the grant to them or at least gave them priority over the land; and (d) the government is estopped from impugning the titles.

Finding the appeal meritorious, the respondent court in a decision dated April 19, 1990, reversed the trial court, ruling that the land subject matter of the case was

part of the forest lands when Homestead Patent No. 64832 dated January 2, 1941 and Original Certificate of Title No. 727 were issued in the name of the petitioners. In arriving at the said conclusion, the respondent court considered : (a) the Certification No. 65, dated January 13, 1981, issued by District Forester Rogelio L. Delgado (Exh. "C"), (b) the Land Classification Map No. 2427 (Exh. "F"), and (c) the testimony of Marceliano Pobre. The respondent court opined:

"IT is a well-known doctrine that a Torrens title, as a rule, is indefeasible, unassailable and irrevocable. However, when the certificate of title covers property of public dominion classified as forest and mineral lands, any title issued on these non-disposable lots should be cancelled even in the hands of an innocent purchaser for value (Lepanto Consolidated Mining Co. vs. Damyung, 89 SCRA 532).

'TWO certifications are in dispute in the case before US. They are Certification No. 65 dated January 13, 1981 and Certification No. 282 dated November 25, 1981 which were both issued by Rogelio L. Delgado, District Forester. Certifications Nos. 65 and 282 respectively are hereby quoted as follows:

'THIS IS TO CERTIFY that the tract of land situated at Matain, Subic, Zambales covered by O.C.T. No. 727 of the Heirs of Antonia Labalan, containing an area of 6.5030 hectares as shown and described in the attached sketch as verified and plotted by Forester Marceliano P. Pobre based on the technical descriptions appearing at the back of the title was found to be within the Alienable and Disposable Land, LC Project No. 13-G, Subic, Zambales, certified as such by then Director of Forestry, Manila on January 31, 1961 per LC Map No. 2427 (Exh. 'C;' underscoring supplied);

and

'THIS IS TO CERTIFY that the area described in the attached Plan as surveyed/prepared by Geodetic Engineer Teodoro Victoriano for Heirs of Antonia Labalan of Subic, Zambales containing an area of 65,030 square meters located at Matain, Subic, Zambales after compiling the same in our control map was found to be within the Alienable and Disposable Land. Block I, Project 13, Subic, Zambales certified as such by then Director of Forestry, Manila on June 7, 1927 per LC Map No. 6656 (Exh. '10'); underscoring supplied).'

"THE apparent differences between the two (2) certifications was first explained in the Manifestation/Motion dated January 17, 1983 of Forester Marceliano Pobre. x x x

"NOTWITHSTANDING the fact that Rogelio L. Delgado, the District Forester who issued the certifications was not presented as a witness for the plaintiff, his testimony at most would be superfluous. Forester Marceliano Pobre actually conducted the survey and verification and whose findings over the status of the land in question was the basis of the Certification No. 65 signed by Rogelio L. Delgado in his capacity as the District Forester.

"THUS, it was held in the case of RP vs. Animas, 56 SCRA 499 that:

'The defense of indefeasibility of a certificate of title issued pursuant to a free patent does not lie against the State in an action for reversion of land covered thereby when such land is a part of a public forest or a forest reservation. As a general rule, timber or forest lands are not alienable or disposable under either the Constitution of 1935 or the Constitution of 1973. Although the Director of Lands has jurisdiction over public lands classified as agricultural under the Constitution, or alienable or disposable under the Public Land Act and is charged with the administration of all laws relative thereto, mineral and timber lands are beyond his jurisdiction x x x when defendant Isagani Du Timbol filed his application for free patent over the land in question, the area was not a disposable or alienable public land but a public forest. Titles issued to private parties by the Bureau of Lands when the land covered thereby is not disposable public land but forest land are void ab initio.'

'THE nature and character of a public land made in the investigation reports of the Bureau of Lands, is binding on the court (Republic vs. Porkan, 151 SCRA 88). Prescription does not lie against the State (Art. 1108 par. 4; New Civil Code). Hence, the right of reversion or conveyance to the State is not barred by prescription. The lower court in its decision is of the opinion that 'even if it were true as contended by the plaintiff that at the time of the granting of patent and the issuance of OCT No. 727 in 1941 to the defendants, the land was not yet disposable and alienable x x x yet such error committed by the government thru the Bureau of Lands in granting the homestead patent, was rectified by the same government thru the then Bureau of Forestry when it released the said land covered by the Homestead Patent from the forest zone x x x Equity demands that the government must not annul and cancel the homestead patent issued in 1941 even if the land was not yet alienable and disposable then, for after all the said became alienable and disposable in 1961' (pp. 323-324, Record). We believe though that the rule must stand no matter how harsh it may seem. Dura lex sed lex."<sup>[7]</sup>

Dissatisfied with the said decision, petitioners now come to us raising the following issues:

## I

Whether or not Certification No. 65 relied upon in the assailed decision of the respondent court prevails over Certification No. 282, both issued by the same District Officer relating to the subject land;

## II

Whether or not the testimony of Forester Marceliano Pobre is sufficient to outweigh Certification No. 282 and thereby accord greater probative value to Certification No. 65;

## III