

SECOND DIVISION

[G.R. No. 118436, March 21, 1997]

HEIRS OF MANUEL A. ROXAS AND TRINIDAD DE LEON VDA. DE ROXAS (IN SUBSTITUTION OF ORIGINAL PETITIONER), PETITIONERS, VS. COURT OF APPEALS AND MAGUESUN MANAGEMENT & DEVELOPMENT CORPORATION, RESPONDENTS.

D E C I S I O N

ROMERO, J.:

Trinidad de Leon Vda. de Roxas, substituted by her heirs,^[1] instituted this petition for review of the Court of Appeals decision dated December 8, 1994 in "Trinidad de Leon Vda. de Roxas v. Maguesun Management and Development: Corporation," (CA G.R. CV No. 38328), alleging reversible error committed by respondent appellate court when it affirmed the decision of the Regional Trial Court of Cavite. The issue presented before us is whether or not private respondent Maguesun Corporation committed actual fraud in obtaining a decree of registration over two unregistered parcels of land in Tagaytay City, actual fraud being the only ground to reopen or review a decree of registration.

The facts of the case are narrated below:

On July 2, 1990, herein private respondent Maguesun Management and Development Corporation (Maguesun Corporation) filed an Application for Registration of two parcels of unregistered land located in Barangay Sungay, Tagaytay City (Lot Nos. 7231 and 7239, Cad-355, Tagaytay Cadastre) with an area of 3,641 and 10,674 square meters respectively. The original registration case was docketed as Case No. TG-373 before the Regional Trial Court of Cavite, Branch 18, presided over by Judge Julieta Tabiolo. In support of its application for registration, Maguesun Corporation presented a Deed of Absolute Sale dated June 10, 1990, executed by Zenaida Melliza as vendor and indicating the purchase price to be P170,000.00. Zenaida Melliza in turn, bought the property from the original petitioner herein, Trinidad de Leon vda. de Roxas for P200,000.00 two and a half months earlier, as evidenced by a Deed of Sale dated March 26, 1990 and an Affidavit of Self-Adjudication dated March 24, 1990.

Notices of the initial hearing were sent by the Land Registration Authority (the National Land Titles and Deeds Registration Authority or NALTDRA) to Hilario Luna, Jose Gil and Leon Luna on the basis of Maguesun Corporation's application for registration. Since Trinidad de Leon vda. de Roxas was not named as an adjoining owner, occupant or adverse claimant, she was not sent a notice of the proceedings. Publication was made in the Official Gazette and the Record Newsweekly.^[2] After an

Order of general default was issued, the trial court proceeded to hear the land registration case. On October 4, 1990, the Land Registration Authority reported, among other things, that the subject parcels of land had previously been applied for registration in Land Registration Case No. 500, GLRO Record No. 55072 at the Court of First Instance of Cavite by Manuel A. Roxas and Trinidad de Leon but no decision has been rendered thereon.^[3] Eventually, on February 13, 1991 the Regional Trial Court granted Maguesun Corporation's application for registration (Land Registration Case No. TG-373) in a three-page decision with the following dispositive portion:^[4]

"WHEREFORE, this Court gives imprimatur to the application for registration of said lands described in plan As-04-000108? Lot Nos. 7231 and 7239, one with an area of 3,641 and the other with an area of 10,674 square meters, as supported and shown by the corresponding technical descriptions now forming part of the records, in the name of Maguesun Management and Development Corporation, with office address at 521 Edsa, Quezon City, free from all liens and encumbrances and from any other adverse claims of any kind and nature.

Upon finality of this Decision, the same ipso facto becomes executory, upon which eventuality the corresponding decree of registration may thus be issued.

SO ORDERED."

Consequently, the Regional Trial Court issued the Order for Issuance of the Decree on March 14, 1991, after the afore-mentioned Decision in LRC No. TG-373 became final^[5] but not before it ordered, on February 14, 1991, Land Registration Case No. 500 (GLRO Record No. 55072) applied for by Manuel A Roxas and Trinidad de Leon, dismissed.

It was only when the caretaker of the property was being asked to vacate the land that petitioner Trinidad de Leon Vda. de Roxas learned of its sale and the registration of the lots in Maguesun Corporation's name.

Hence, on April 21, 1991, petitioner filed a petition for review before the Regional Trial Court, docketed as Civil Case No. TG-1183 to set aside the decree of registration on the ground that Maguesun Corporation committed actual fraud. She alleged that the lots were among the properties she inherited from her husband, former President Manuel A. Roxas, who died on April 15, 1946 and that her family had been in open, continuous, adverse and uninterrupted possession of the subject property in the concept of owner for more than thirty years before they applied for its registration under the Torrens System of land titling. Petitioner further denied that she sold the lots to Zenaida Melliza whom she had never met before and that her signature was forged in both the Deed of Sale and the Affidavit of Self-Adjudication. In support of her claims, she also listed a number of irregularities in the documents to prove actual fraud. In addition, and perhaps more significantly, she claimed that Maguesun Corporation intentionally omitted her name as an adverse claimant, occupant or adjoining owner in the application for registration submitted to the Land Registration Authority such that the latter could not send her

a Notice of Initial Hearing. As result, an order of general default was issued and Magesun Corporation's application for registration was granted. She charged Magesun Corporation with knowledge or authorship of the fraud owing to the fact that Magesun Corporation's president, Manolita Guevarra Suntay after whom the corporation was named, was her niece. Manolita Suntay is the daughter of Lourdes Guevarra Suntay, a deceased cousin of petitioner Vda. de Roxas who used to help with the latter's business affairs. Manolita Suntay used to take care of the registration and insurance of the latter's cars.^[6]

The sole issue of the case, as laid down by the trial court after the pre-trial, was whether or not Vda. de Roxas' signatures on the Deed of Absolute Sale and the Affidavit of Self-Adjudication in favor of Zenaida Melliza were forged.^[7] Petitioner, who was then already 92 years of age, testified in open court on February 11, 1992 that she has never met Zenaida Melliza, that she did not sell the subject lots and that her signatures on the Deed of Sale and Affidavit of Self-Adjudication were forged.^[8] A document examiner from the Philippine National Police (PNP) concluded that there was no forgery.^[9] Upon petitioner's motion, the signatures were re-examined by another expert from the National Bureau of Investigation The latter testified that the signatures on the questioned and sample documents were not written by the same person.^[10] Despite the foregoing testimonies and pronouncements, the trial court dismissed the petition for review of decree of registration on April 15, 1992.^[11] Placing greater weight on the findings and testimony of the PNP document examiner, it concluded that the questioned documents were not forged and if they were, it was Zenaida Melliza, and not Magesun Corporation, who was responsible. Accordingly, Magesun Corporation did not commit actual fraud. The court further noted that petitioner Mrs. Trinidad Roxas had not been paying taxes for several years, which fact "exhibited what appeared to be unmistakeable signs of not actually owning (the lots) any more," and that her application for registration was "previously dismissed and abandoned," thus indicating that "petitioner herself is aware that she had already lost . x x interest, if not actually her rights, over the property in question."^[12]

In a decision dated December 8, 1994,^[13] respondent court denied the petition for review and affirmed the findings of the trial court. The Court of Appeals held that petitioner failed to demonstrate that there was actual or extrinsic fraud, not merely constructive or intrinsic fraud, a prerequisite for purposes of annulling a judgment or reviewing a decree of registration. Additionally, respondent court stated that the discrepancies or irregularities in the Deed of Sale and Affidavit of Self-Adjudication pointed out by petitioner are not patent or obvious, involve matters that are too trivial, requiring knowledge of the intricacies of the law and are "not necessarily and exclusively indicia of extrinsic fraud and/or bad faith — especially when considered in the light of circumstances hereinafter discussed." The records also show, according to the appellate court, that Magesun Corporation had not concealed from the court either the existence of petitioner or any interest she may have had in the registration proceedings. Finally, the Court of Appeals ruled that publication of the initial hearing in the Official Gazette is sufficient to confer jurisdiction upon the court.^[14]

Hence, the instant petition for review where it is alleged that the Court of Appeals erred in ruling that Magesun Corporation did not commit actual fraud warranting

the setting aside of the registration decree and in resolving the appeal on the basis of Maguesun Corporation's good faith. Petitioners pray that the registration of the subject lots in the name of Maguesun Corporation be cancelled, that said property be adjudicated in favor of petitioners and that respondent corporation pay moral damages not less than P100,000.00, exemplary damages not less than P36,000.00 and attorney's fees of P60,000.00.

We find the petition for review impressed with merit.

1. Registration of untitled land under the Torrens System is done pursuant to Presidential Decree No. 1529, the Property Registration Decree which amended and codified laws relative to registration of property.^[15] Adjudication of land in a registration (or cadastral) case does not become final and incontrovertible until the expiration of one year after the entry of the final decree. Before such time, the decision remains under the control and sound discretion of the court rendering the decree, which court after hearing, may set aside the decision or decree and adjudicate the land to another party.^[16] Absence, minority or other disability of any person affected, or any proceeding in court for reversing judgments, are not considered grounds to reopen or revise said decree. However, the right of a person deprived of land or of any estate or interest therein by adjudication or confirmation of title obtained by actual fraud is recognized by law (Section 32 of Presidential Decree No. 1529) as a valid and legal basis for reopening and revising a decree of registration.^[17] It is further required that a petition for reopening and review of the decree of registration be filed within one year from the date of entry of said decree, that the petitioner has a real and dominical right and the property has not yet been transferred to an innocent purchaser.^[18]

Fraud is of two kinds: actual or constructive. Actual or positive fraud proceeds from an intentional deception practiced by means of the misrepresentation or concealment of a material fact.^[19] Constructive fraud is construed as a fraud because of its detrimental effect upon public interests and public or private confidence, even though the act is not done or committed with an actual design to commit positive fraud or injury upon other persons.^[20]

Fraud may also be either extrinsic or intrinsic. Fraud is regarded as intrinsic where the fraudulent acts pertain to an issue involved in the original action, or where the acts constituting the fraud were or could have been litigated therein, and is regarded as extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured, so that there is not a fair submission of the controversy.^[21] Extrinsic fraud is also actual fraud, but collateral to the transaction sued upon.^[22]

The distinctions are significant because only actual fraud or extrinsic fraud has been accepted as grounds for a judgment to be annulled or, as in this case, a decree of registration reopened and reviewed.^[23] In the oft-cited *Macabingkil v. People's Homesite and Housing Corporation* case, the Court drew from American jurisprudence stating that "relief has been granted on the ground that, by some fraud practiced directly upon the party seeking relief against the judgment or decree, (and) that party has been prevented from presenting all of his case to the

court."^[24] The "fraud" contemplated by the law in this case (Section 32, P.D. No. 1529) is actual and extrinsic, which includes, an intentional omission of fact required by law.^[25] For fraud to justify a review of a decree, it must be extrinsic or collateral, and the facts upon which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered.^[26] Persons who were fraudulently deprived of their opportunity to be heard in the original registration case are entitled to a review of a decree of registration.

In *Ramirez v. CA*,^[27] this Court adopted the Court of Appeals' ruling that the suppression of the fact that the applicant spouses possessed the subject ricefield merely as antichretic creditors and the fraudulent concealment and misrepresentation in the application that no other persons had any claim or interest in the said land, constitute specific allegations of extrinsic fraud supported by competent proof. Failure and intentional omission of the applicants to disclose the fact of actual physical possession by another person constitutes an allegation of actual fraud.^[28] Likewise, it is fraud to knowingly omit or conceal a fact, upon which benefit is obtained to the prejudice of a third person.^[29]

The Court here finds that respondent Magesun Corporation committed actual fraud in obtaining the decree of registration sought to be reviewed by petitioner.

Petitioner Vda. de Roxas contended that Magesun Corporation intentionally omitted their name, or that of the Roxas family, as having a claim to or as an occupant of the subject property. In the corporation's application for registration filed with the trial court in LRC No. TG-373, the following declaration appears:

6. That the names in full and addresses, as far as known to the undersigned, of the owners of all adjoining properties; of the persons mentioned in paragraphs 3 and 5 (mortgagors, encumbrancers, and occupants) and of the person shown on the plan as claimants are as follows:

Hilario Luna, Jose Gil. Leon Luna. Provincial Road all at Tagaytay City (no house No.)"^[30]

The highlighted words are typed in with a different typewriter, with the first five letters of the word "provincial" typed over correction fluid. Magesun Corporation, however, annexed a differently-worded application for the petition to review case (Civil Case No. TG-1183, "*Trinidad de Leon Vda. de Roxas v. Magesun Management and Development Corporation, et al.*"). In the copy submitted to the trial court, the answer to the same number is as follows:

Hilario Luna, Jose Gil, Leon Luna, Roxas.^[31]

The discrepancy which is unexplained appears intentional. If the word "Roxas" were indeed erased and replaced with "Provincial Road all at Tagaytay City (no house No.)" in the original application submitted in LRC No. TG-373 but the copy with the word "Roxas" was submitted to the trial court in Civil Case No. TG-1183, it is reasonable to assume that the reason is to mislead the court into thinking that "Roxas" was placed in the original application as an adjoining owner, encumbrancer,