

[SYLLABUS]

[G.R. No. 104296, March 29, 1996]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DIRECTOR OF LANDS, PETITIONER, VS. THE COURT OF APPEALS,
HEIRS OF IRENE BULLUNGAN, REPRESENTED BY HER HUSBAND
DOMINGO PAGGAO AND THE REGISTER OF DEEDS OF ISABELA,
RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review of the decision^[1] of the Court of Appeals reversing the decision of the Regional Trial Court, Branch XIX,^[2] Cauayan, Isabela declaring Free Patent No. V-79740 and Original Certificate of Title No. P-88 17 in the name of Irene Bullungan null and void so far as the portion of Lot No. 1, Psu- 150801 involved in this case is concerned.

The facts of this case are as follows:

On September 10, 1955, Irene Bullungan (now deceased) applied for a free patent covering lots situated in Fugaru (now San Guillermo), Angadanan, Isabela. The lots included a portion of Lot No. 1, Psu-150801, between Lot No. 763 and Lot No. 764, consisting of 1.04 hectares, which Vicente Carabbacan claimed. In her application, Irene Bullungan stated that the land applied for by her was not claimed or occupied by any other person and that it was public land which had been continuously occupied and cultivated by her since 1925.^[3]

Upon certification of Assistant Public Land Inspector Jose M. Telmo at Ilagan, Isabela that Irene Bullungan had been in actual, continuous, open, notorious, exclusive and adverse possession of the land since 1925, the Director of Lands approved Bullungan's application on June 4, 1957. On December 26, 1957, Original Certificate of Title No. P-8817 was issued in the name of Irene Bullungan.

Alleging that a portion of Lot No. 1, Psu-150801 covered by the free patent issued to Irene Bullungan overlapped the lot between Lot No. 763 and Lot No. 764, which he was occupying, Vicente Carrabacan filed a protest on September 7, 1961. The District Land Officer at Ilagan, Isabela recommended the dismissal of the protest on the ground that the Bureau of Lands no longer had jurisdiction over the matter as a result of the grant of a free patent to Irene Bullungan. But the Director of Lands on March 23, 1982 ordered an investigation of the protest.

Vicente Carabbacan also brought an action for the reconveyance of the portion of Lot No. 1, Psu-150801 and the cancellation of free patent against Irene Bullungan on September 5, 1961, although this was dismissed by the court without prejudice.

The heirs of Irene Bullungan in turn sought to recover possession of the land in an action which they brought in the Court of First Instance of Isabela on April 13, 1972. The case was docketed as Civil Case No. Br. II-1102. On the other hand, refusing to give up his claim, Vicente Carabbacan filed a case for reconveyance on August 15, 1972, which was docketed as Civil Case No. 1108. The cases were thereafter tried jointly.

On November 22, 1972 the court rendered a decision, dismissing the complaint of Vicente Carabbacan and ordering him to vacate the land, even as it upheld the ownership of Irene Bullungan. Carabbacan, who had been in possession of the land in question, was finally ousted on December 10, 1981.

As already stated, the Director of Lands ordered on March 23, 1982 an investigation of Carabbacan's protest. The investigation was undertaken by Senior Special Investigator Napoleon R. Dulay, who found that Vicente Carabbacan had been in actual cultivation of the land identified as Lot No. 763, Pls-594 since 1947, having acquired the same from Tomas Tarayao on May 4, 1947. In his report dated September 17, 1985, the land investigator stated that due to a big flood which occurred in December 1947, the Cagayan River changed its course by moving north-east, resulting in the emergence of a piece of land, which is the subject of this dispute. Carrabacan took possession of the land and cultivated it. He was in the continuous, peaceful, open and adverse occupation and cultivation of the land from December 1947 until 1981 when he was ejected by virtue of the decision in Civil Cases No. 1088 and 11102.^[4]

Based on these findings, the Chief of the Legal Division of the Bureau of Lands recommended on March 10, 1986 that steps be taken to seek the amendment of Free Patent No. V-79740 and Original Certificate of Title No. P-8817 of the late Irene Bullungan so as to exclude the disputed portion and for the reversion of the same to the State.

On November 28, 1986, the Solicitor General filed in behalf of the Republic of the Philippines a complaint for the cancellation of Free Patent No. V- 79740 and OCT No. P-8817 on the ground of fraud and misrepresentation in obtaining the free patent. The case was filed in the Regional Trial Court of Cauayan, Isabela which, on September 25, 1989, rendered a decision declaring Free Patent No. V-79740 and OCT No. P-8817 null and void insofar as the portion of Lot No. 1, Psu-150801 between Lot No. 763 and Lot No. 764, is concerned. The lower court found that Irene Bullungan made misrepresentations by claiming in her application for a free patent that she was in possession of the disputed portion of Lot No. 1, Psu-150801, when in fact Vicente Carabbacan was occupying and cultivating the land. The court justified the reversion of the land in question as an assertion of "a governmental right."

On appeal, however, the Court of Appeals reversed the lower court's ruling on the ground that, after the lapse of one year from the date of issuance of the patent, the State could no longer bring an action for reversion. The appellate court held that the certificate of title issued in the name of Irene Bullungan became incontrovertible and indefeasible upon the lapse of one year from the issuance of the free patent.

The Republic controverts the ruling of the Court of Appeals. It contends that the doctrine of indefeasibility of Torrens Titles does not bar the filing of an action for

cancellation of title and reversion of land even if more than one year has elapsed from the issuance of the free patent in case of fraud in obtaining patents.

We agree with petitioner. To begin with, there is no question that Free Patent No. 79740 and Original Certificate of Title P-8817 were obtained through fraud. The trial court found that Irene Bullungan falsely stated in her application for a free patent that Lot No. 1, Psu-150801 was not claimed or occupied by any other person. The trial court found that a portion of the lot in question had been in the possession and cultivation of Vicente Carabbacan since December 1947.^[5] Indeed private respondents admit that before Irene Bullungan filed her application for a free patent, she had filed a complaint for forcible entry against Vicente Carrabacan. The complaint, which was filed in the Justice of the Peace Court of Angadanan, Isabela, was dismissed precisely because the court found that Carabbacan had been in possession of the land long before it was sold to Irene Bullungan by Leonida Tarayao.^[6]

The Court of Appeals did not disturb the trial court's finding in this case that Irene Bullungan committed fraud and misrepresentation. Its decision rests solely on the ground that after the lapse of one year from the date of issuance of a free patent an action for the cancellation of patent and title on ground of fraud and misrepresentation can no longer be maintained.

We think that this is error. It is settled that once a patent is registered under Act No. 496 (now P.D. No. 1529) and the corresponding certificate of title is issued, the land ceases to be part of the public domain and becomes private property over which the Director of Lands will no longer have either control or jurisdiction.^[7] The Torrens Title issued on the basis of a free patent or homestead patent becomes as indefeasible as one which was judicially secured upon the expiration of one year from date of issuance of patent as provided in P.D. No. 1529, § 32 (formerly Act No. 496, § 38). However, as held in *Director of Lands v. De Luna*,^[8] even after the lapse of one year, the State may still bring an action under § 101^[9] of the Public Land Act for the reversion to the public domain of lands which have been fraudulently granted to private individuals. This has been the consistent ruling of this Court.^[10]

The failure of Irene Bullungan to disclose that Vicente Carrabacan was in possession of the portion of land in dispute constitutes fraud and misrepresentation and is a ground for annulling her title.^[11] Thus § 91 of the Public Land Act provides:

§ 91. The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall *ipso facto* produce the cancellation of the concession, title, or permit granted. It shall be the duty of the Director of Lands, from time to time and whenever he may deem it advisable, to make the necessary investigations for the purpose of ascertaining whether the material facts set out in the application are true, or whether they continue to exist and