

## THIRD DIVISION

**[ G.R. No. 100709, November 14, 1997 ]**

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE  
DIRECTOR OF LANDS, PETITIONER, VS. COURT OF APPEALS,  
JOSEFINA L. MORATO, SPOUSES NENITA CO AND ANTONIO  
QUILATAN AND THE REGISTER OF DEEDS OF QUEZON  
PROVINCE, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

Will the lease and/or mortgage of a portion of a realty acquired through free patent constitute sufficient ground for the nullification of such land grant? Should such property revert to the State once it is invaded by the sea and thus becomes foreshore land?

#### The Case

These are the two questions raised in the petition before us assailing the Court of Appeals' <sup>[1]</sup> Decision in CA-G.R. CV No. 02667 promulgated on June 13, 1991 which answered the said questions in the negative. <sup>[2]</sup> Respondent Court's Decision dismissed <sup>[3]</sup> petitioner's appeal and affirmed in toto the decision of the Regional Trial Court <sup>[4]</sup> of Calauag, Quezon, dated December 28, 1983 in Civil Case No. C-608. In turn, the Regional Trial Court's decision dismissed petitioner's complaint for cancellation of the Torrens Certificate of Title of Respondent Morato and for reversion of the parcel of land subject thereof to the public domain.

#### The Facts

The petition of the solicitor general, representing the Republic of the Philippines, recites the following facts: <sup>[5]</sup>

"Sometime in December, 1972, respondent Morato filed a Free Patent Application No. III-3-8186-B on a parcel of land with an area of 1,265 square meters situated at Pinagtalleran, Calauag, Quezon. On January 16, 1974, the patent was approved and the Register of Deeds of Quezon at Lucena City issued on February 4, 1974 Original Certificate of Title No. P-17789. Both the free patent and the title specifically mandate that the land shall not be alienated nor encumbered within five (5) years from the date of the issuance of the patent (Sections 118 and 124 of CA No. 141, as amended).

Subsequently, the District Land Officer in Lucena City, acting upon reports that respondent Morato had encumbered the land in violation of

the condition of the patent, conducted an investigation. Thereafter, it was established that the subject land is a portion of the Calauag Bay, five (5) to six (6) feet deep under water during high tide and two (2) feet deep at low tide, and not suitable to vegetation. Moreover, on October 24, 1974, a portion of the land was mortgaged by respondent Morato to respondents Nenita Co and Antonio Quilatan for P10,000.00 (pp. 2, 25, Folder of Exhibits). The spouses Quilatan constructed a house on the land. Another portion of the land was leased to Perfecto Advincula on February 2, 1976 at P100.00 a month, where a warehouse was constructed.

On November 5, 1978, petitioner filed an amended complaint against respondents Morato, spouses Nenita Co and Antonio Quilatan, and the Register of Deeds of Quezon for the cancellation of title and reversion of a parcel of land to the public domain, subject of a free patent in favor of respondent Morato, on the grounds that the land is a foreshore land and was mortgaged and leased within the five-year prohibitory period (p. 46, Records).

After trial, the lower court, on December 28, 1983, rendered a decision dismissing petitioner's complaint. In finding for private respondents, the lower court ruled that there was no violation of the 5-year period ban against alienating or encumbering the land, because the land was merely leased and not alienated. It also found that the mortgage to Nenita Co and Antonio Quilatan covered only the improvement and not the land itself."

On appeal, the Court of Appeals affirmed the decision of the trial court. Thereafter, the Republic of the Philippines filed the present petition.<sup>[6]</sup>

### **The Issues**

Petitioner alleges that the following errors were committed by Respondent Court:<sup>[7]</sup>

#### **"I**

Respondent Court erred in holding that the patent granted and certificate of title issued to Respondent Morato cannot be cancelled and annulled since the certificate of title becomes indefeasible after one year from the issuance of the title.

#### **II**

Respondent Court erred in holding that the questioned land is part of a disposable public land and not a foreshore land."

### **The Court's Ruling**

#### **The petition is meritorious.**

#### **First Issue: Indefeasibility of a Free Patent Title**

In resolving the first issue against petitioner, Respondent Court held:<sup>[8]</sup>

"x x x. As ruled in *Heirs of Gregorio Tengco vs. Heirs of Jose Alivalas*, 168 SCRA 198. 'x x. The rule is well-settled that an original certificate of title issued on the strength of a homestead patent partakes of the nature of a certificate of title issued in a judicial proceeding, as long as the land disposed of is really part of the disposable land of the public domain, and becomes indefeasible and incontrovertible upon the expiration of one year from the date of promulgation of the order of the Director of Lands for the issuance of the patent. (*Republic v. Heirs of Carle*, 105 Phil. 1227 (1959); *Ingaran v. Ramelo*, 107 Phil. 498 (1960); *Lopez v. Padilla*, (G.R. No. L-27559, May 18, 1972, 45 SCRA 44). A homestead patent, one registered under the Land Registration Act, becomes as indefeasible as a Torrens Title. (*Pamintuan v. San Agustin*, 43 Phil. 558 (1982); *El Hogar Filipino v. Olviga*, 60 Phil. 17 (1934); *Duran v. Oliva*, 113 Phil. 144 (1961); *Pajomayo v. Manipon*, G.R. No. L-33676, June 30, 1971, 39 SCRA 676).' (p. 203).

Again, in *Lopez vs. Court of Appeals*, 169 SCRA 271, citing *Iglesia ni Cristo v. Hon. Judge, CFI of Nueva Ecija, Branch I*, (123 SCRA 516 (1983) and *Pajomayo, et al. v. Manipon, et al.* (39 SCRA 676 (1971) held that once a homestead patent granted in accordance with the Public Land Act is registered pursuant to Section 122 of Act 496, the certificate of title issued in virtue of said patent has the force and effect of a Torrens Title issued under the Land Registration Act.

Indefeasibility of the title, however, may not bar the State, thru the Solicitor General, from filing an action for reversion, as ruled in *Heirs of Gregorio Tengco v. Heirs of Jose Aliwalas*, (*supra*), as follows:

"But, as correctly pointed out by the respondent Court of Appeals, Dr. Aliwalas' title to the property having become incontrovertible, such may no longer be collaterally attacked. If indeed there had been any fraud or misrepresentation in obtaining the title, an action for reversion instituted by the Solicitor General would be the proper remedy (Sec. 101, C.A. No. 141; *Director of Lands v. Jugado*, G.R. No. L-14702, May 21, 1961, 2 SCRA 32; *Lopez v. Padilla*, *supra*).' (p. 204)."

Petitioner contends that the grant of Free Patent (IV-3) 275 and the subsequent issuance of Original Certificate of Title No. P-17789 to Respondent Josefina L. Morato were subject to the conditions provided for in Commonwealth Act (CA) No. 141. It alleges that on October 24, 1974, or nine (9) months and eight (8) days after the grant of the patent, Respondent Morato, in "violation of the terms of the patent, mortgaged a portion of the land" to Respondent Nenita Co, who thereafter constructed a house thereon. Likewise, on February 2, 1976 and "within the five-year prohibitory period," Respondent Morato "leased a portion of the land to Perfecto Advincula at a monthly rent of P100.00 who, shortly thereafter, constructed a house of concrete materials on the subject land."<sup>[9]</sup> Further, petitioner argues that the defense of indefeasibility of title is "inaccurate." The original certificate of title issued to Respondent Morato "contains the seeds of its own cancellation": such certificate specifically states on its face that "it is subject to the provisions of Sections 118, 119, 121, 122, 124 of CA No. 141, as amended."<sup>[10]</sup>

Respondent Morato counters by stating that although a "portion of the land was previously leased," it resulted "from the fact that Perfecto Advincula built a warehouse in the subject land without [her] prior consent." The mortgage executed over the improvement "cannot be considered a violation of the said grant since it can never affect the ownership."<sup>[11]</sup> She states further:

"x x x. the appeal of the petitioner was dismissed not because of the principle of indefeasibility of title but mainly due to failure of the latter to support and prove the alleged violations of respondent Morato. The records of this case will readily show that although petitioner was able to establish that Morato committed some acts during the prohibitory period of 5 years, a perusal thereof will also show that what petitioner was able to prove never constituted a violation of the grant."<sup>[12]</sup>

Respondent-Spouses Quilatan, on the other hand, state that the mortgage contract they entered into with Respondent Morato "can never be considered as [an] 'alienation' inasmuch as the ownership over the property remains with the owner."<sup>[13]</sup> Besides, it is the director of lands and not the Republic of the Philippines who is the real party in interest in this case, contrary to the provision of the Public Land Act which states that actions for reversion should be instituted by the solicitor general in the name of Republic of the Philippines.<sup>[14]</sup>

We find for petitioner.

Quoted below are relevant sections of Commonwealth Act No. 141, otherwise known as the Public Land Act:

"Sec. 118. Except in favor of the Government or any of its branches, units or institutions, or legally constituted banking corporations, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period; but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations.

No alienation, transfer, or conveyance of any homestead after five years and before twenty-five years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Natural Resources, which approval shall not be denied except on constitutional and legal grounds. (As amended by Com. Act No. 456, approved June 8, 1939.)"

x x x

x x x

x x x

"Sec. 121. Except with the consent of the grantee and the approval of the Secretary of Agriculture and Natural Resources, and solely for educational, religious, or charitable purposes or for a right of way, no corporation, association, or partnership may acquire or have any right, title, interest, or property right whatsoever to any land granted under the

free patent, homestead, or individual sale provisions of this Act or to any permanent improvement on such land. (As amended by Com. Act No. 615, approved May 5, 1941)

Sec. 122. No land originally acquired in any manner under the provisions of this Act, nor any permanent improvement on such land, shall be encumbered, alienated or transferred, except to persons, corporations, association, or partnerships who may acquire lands of the public domain under this Act or to corporations organized in the Philippines authorized therefore by their charters.

Except in cases of hereditary successions, no land or any portion thereof originally acquired under the free patent, homestead, or individual sale provisions of this Act, or any permanent improvement on such land, shall be transferred or assigned to any individual, nor shall such land or any permanent improvement thereon be leased to such individual, when the area of said land, added to that of his own, shall exceed one hundred and forty-four hectares. Any transfer, assignment, or lease made in violation hereto shall be null and void. (As amended by Com. Act No. 615, Id.)"

x x x

x x x

x x x

"Sec. 124. Any acquisition, conveyance, alienation, transfer, or other contract made or executed in violation of any of the provisions of sections one hundred and eighteen, one hundred and twenty, one hundred and twenty-one, one hundred and twenty-two, and one hundred and twenty-three of this Act shall be unlawful and null and void from its execution and shall produce the effect of annulling and cancelling the grant, title, patent, or permit originally issued, recognized or confirmed, actually or presumptively, and cause the reversion of the property and its improvements to the State." (Underscoring supplied.)

The foregoing legal provisions clearly proscribe the encumbrance of a parcel of land acquired under a free patent or homestead within five years from the grant of such patent. Furthermore, such encumbrance results in the cancellation of the grant and the reversion of the land to the public domain. Encumbrance has been defined as "[a]nything that impairs the use or transfer of property; anything which constitutes a burden on the title; a burden or charge upon property; a claim or lien upon property." It may be a "legal claim on an estate for the discharge of which the estate is liable; an embarrassment of the estate or property so that it cannot be disposed of without being subject to it; an estate, interest, or right in lands, diminishing their value to the general owner; a liability resting upon an estate."<sup>[15]</sup> Do the contracts of lease and mortgage executed within five (5) years from the issuance of the patent constitute an "encumbrance" and violate the terms and conditions of such patent? Respondent Court answered in the negative.<sup>[16]</sup>

"From the evidence adduced by both parties, it has been proved that the area of the portion of the land, subject matter of the lease contract (Exh. 'B') executed by and between Perfecto Advincula and Josefina L. Morato is only 10 x 12 square meters, whereas the total area of the land granted