

THIRD DIVISION

[G.R. No. 161419, August 25, 2009]

**EUGENIO ENCINARES, PETITIONER, VS. DOMINGA ACHERO,
RESPONDENT.**

DECISION

NACHURA, J.:

Before this Court is a Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision^[2] dated April 28, 2003 which reversed and set aside the Decision^[3] dated January 20, 2000 of the Regional Trial Court (RTC) of Sorsogon, Sorsogon, Branch 52.

The Facts

On July 13, 1989, petitioner Eugenio Encinares (petitioner) filed a Complaint^[4] for Quieting of Title and Reconveyance against respondent Dominga Achero^[5] (respondent). Petitioner alleged that he bought several parcels of land from Roger U. Lim as evidenced by a Deed of Absolute Sale of Real Properties^[6] dated April 9, 1980. Among these was the subject property, a parcel of land dedicated to *abaca* production, containing 16,826 square meters, known as Lot No. 1623, and situated in Sitio Maricot, *Barangay* Buraburan, Juban, Sorsogon (subject property). He, however, discovered that, sometime in June 1987, respondent was able to register the said property and cause it to be titled under the Free Patent System.

Petitioner asseverated that he is the owner and actual possessor of the subject property which is covered by Tax Declaration No. 07132. He claimed that, for more than thirty (30) years, he had been in actual, continuous, adverse, and open possession in the concept of an owner of the subject property, tacking the possession of his predecessors-in-interest. However, sometime in June 1987, the respondent, by means of misrepresentation, fraud, deceit, and machination, caused one-half portion of the subject property to be titled in her name under the Free Patent System. Petitioner alleged that, despite the fact that respondent's application has no legal basis as she is not the owner and actual possessor of the subject property, a free patent was issued in her favor and Original Certificate of Title (OCT) No. P-23505, covering an area of 23,271 square meters, was issued in her name. Thus, petitioner postulated that, with the inclusion of one-half portion of his property, the issuance of said title casts doubt on his ownership over the same. Moreover, petitioner demanded that respondent execute in his favor a deed of reconveyance involving the portion of his land, which is now covered by respondent's title, but the latter refused, compelling him to file this case. Petitioner, therefore, prayed that he be declared the owner and actual possessor of the subject property and that respondent be ordered to execute a deed of reconveyance in his

favor.

In her Answer^[7] dated September 7, 1989, respondent denied petitioner's material allegations and, by way of affirmative defense, averred that the complaint constituted an indirect and collateral attack on her title, which is not allowed, and rendered the complaint defective, thereby requiring its dismissal. Respondent alleged that OCT No. P-23505 was issued under her name and the property covered by the OCT is exclusively hers and does not include petitioner's property.

Upon joint motion of the parties, the RTC issued an Order^[8] dated March 9, 1990, directing a duly authorized representative/surveyor of the Bureau of Lands to conduct a relocation survey on the two (2) parcels of land involved in the case, namely: Lot No. 1623 and the lot covered by OCT No. P-23505.

Subsequently, Engineer Eduardo P. Sabater submitted his Commissioner's Report^[9] (Report) on August 3, 1993. The Report stated that the limits of the common boundaries of the parties were defined by large trees and stones marked by "X." The Report also stated that the actual area as claimed by petitioner contained 19,290 square meters, while that of respondent contained 3,981 square meters.

On September 21, 1994, petitioner filed a Motion for Leave to Amend Complaint,^[10] alleging that there were some mistaken and inadequate allegations in the original complaint, and that the amendments to be made would not substantially change the cause of action in the complaint. Because no objection was interposed by respondent's counsel, the Motion was granted by the RTC in an Order^[11] dated October 18, 1994.

On October 20, 1994, petitioner filed the Amended Complaint,^[12] inserting the word "ENTIRE" in paragraph four (4) thereof. Thus, petitioner averred that respondent, through fraud, caused the ENTIRE area of the above-described land to be titled under the Free Patent System. For her part, respondent manifested that she would no longer file an answer to the Amended Complaint. Thereafter, trial on the merits ensued. In January 1996, respondent passed away.^[13] Respondent was duly substituted by her son, Vicente Achero (Vicente).^[14]

The RTC's Ruling

On January 20, 2000, the RTC rendered a Decision in favor of petitioner, declaring him as the absolute owner of Lot 1623-B, containing an area of 19,290 square meters. The RTC declared that while Section 32^[15] of Presidential Decree (P.D.) No. 1529 (The Property Registration Decree) provides that a decree of registration and certificate of title become incontrovertible after the lapse of one year, the aggrieved party whose land has been registered through fraud in the name of another person may file an ordinary civil action for reconveyance of his property, provided that the same had not been transferred to innocent purchasers for value. Thus, the RTC disposed of the case in this wise:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant, to wit:

1. Declaring plaintiff Eugenio Encinares the absolute owner of Lot 1623-B containing an area of 19,290 sq. m. which is a portion included in OCT No. P-23505 in the name of Dominga Achero of the Registry of Deeds of Sorsogon;
2. Declaring OCT No. P-23505 covering Lot 1623 with an area of 19,290 sq. m. in the name of the defendant Dominga Achero as null and void[;]
3. Ordering the defendant Dominga Achero and/or Vicente Achero to reconvey that portion found in the Relocation Survey Report marked as Exh. "R" and denominated as Lot 1623-B as surveyed for Eugenio Encinares and Dominga Achero[;]
4. Ordering the Register of Deeds of Sorsogon to make an annotation on the Certificate of Title No. P-23505 covering the land in question as the same was fraudulently procured[;]
5. Dismissing the counterclaim of the defendants[;]

[6.] Ordering the defendant to pay the costs.

SO ORDERED.^[16]

Aggrieved, respondent appealed to the CA.^[17]

The CA's Ruling

On April 28, 2003, the CA reversed and set aside the RTC's ruling, upheld the validity of OCT No. P-23505, and dismissed the complaint for quieting of title and reconveyance filed by petitioner. The CA held that the RTC erred in declaring OCT No. P-23505 as null and void because in an action for reconveyance, the decree of registration is respected as incontrovertible. Moreover, the CA held that petitioner failed to prove by clear and convincing evidence his title to the subject property and the fact of fraud. Petitioner's evidence, consisting of tax declarations and deeds of sale, acknowledged that the subject property had not been registered. Likewise, the CA noted that petitioner's evidence showed that the possession of his predecessors-in-interest started only sometime in 1951; thus, petitioner could be presumed to have acquired a title pursuant to Section 48(b)^[18] of Commonwealth Act 141 (The Public Land Act) as amended by P.D. No. 1073. The CA opined that it was erroneous for the RTC to award 19,290 square meters to petitioner when the Deed of Absolute Sale of Real Properties, from which he allegedly derived his rights, stated that the lot sold to him consisted only of 16,826 square meters. Lastly, the CA found no irregularity in the issuance of the Free Patent and OCT No. P-23505.

Undaunted, petitioner filed a Motion for Reconsideration,^[19] which the CA, however, denied in its Resolution^[20] dated December 19, 2003. Hence this Petition, raising the following issues:

I.

WHETHER THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN REVERSING AND SETTING ASIDE THE DECISION OF THE REGIONAL TRIAL COURT.

II.

WHETHER THE PETITIONER HAS THE RIGHT TO SEEK THE RECONVEYANCE OF THE SUBJECT LAND WHICH WAS WRONGFULLY REGISTERED IN THE NAME OF THE RESPONDENT.^[21]

Petitioner claims that the subject property was sold by Simeon Achero (Simeon),^[22] eldest son of Eustaquio Achero^[23] (Eustaquio), to Cecilia Grajo who, in turn, sold the same to Cipriano Bardilo.^[24] Subsequently, Cipriano Bardilo sold the subject property to Pedro Guevarra,^[25] who then sold the same to Roger Lim,^[26] from whom petitioner bought the subject property in 1980. Petitioner asserts that he has been in actual, continuous, adverse, and open possession in the concept of an owner thereof for more than thirty (30) years when tacked with the length of possession of his predecessors-in-interest; and that he has introduced some improvements on the subject property and has been enjoying its produce. Petitioner argues that contrary to the CA's findings, he was able to prove by preponderance of evidence that he is the true and actual owner of the subject property; that he has equitable title thereto; and that there was fraud in the acquisition of the Free Patent. Petitioner also argues that, as pointed out by the RTC, the tax declarations^[27] of petitioner and his predecessors-in-interest show that, in fact, petitioner, as well as his predecessors-in-interest, has been in actual possession of the subject property since 1951 or even prior thereto; that the factual findings of the RTC in this case should not have been disturbed by the CA, as the former's findings were clearly based on evidence; and that the law protects only holders of title in good faith and does not permit its provisions to be used as a shield for the commission of fraud or for one's enrichment at the expense of another.^[28]

On the other hand, respondent avers that the subject property had been originally claimed, occupied and cultivated since 1928 by Eustaquio, father of Simeon and father-in-law of respondent. Before Eustaquio died in 1942, he gave the subject property to respondent, as evidenced by the Joint Affidavit^[29] of Dalmacio Venus and Elias Aurelio. Respondent continued the possession, occupation and cultivation of the subject property in the concept of an owner up to the present. On October 1, 1986, respondent executed a Deed of Ratification and Confirmation of Ownership.^[30] Documents were submitted to the Bureau of Lands, which conducted an ocular inspection and relocation survey and issued a Final Investigation Report.^[31] Finding

respondent's application for a Free Patent to be proper in form and substance, and in accordance with law, the same was granted per Order: Approval of Applications and Issuance of Patent.^[32] Subsequently, OCT No. P-23505, covering the subject property with a total area of 23,271 square meters, was issued in favor of respondent. Respondent manifested that she was unlettered, and that her only preoccupation was working on the land like other ordinary tillers. As such, in the absence of evidence, petitioner could not validly claim that respondent employed fraud in the application and issuance of a Free Patent, in the same way that no fraud attended the issuance of OCT No. P-23505. Respondent relied on the presumption of regularity in the performance of official functions of the personnel of the Bureau of Lands.^[33]

Simply put, the main issue is who, between petitioner and respondent, has a better right over the subject property.

Our Ruling

The instant Petition is bereft of merit.

While factual issues are not within the province of this Court, as it is not a trier of facts and is not required to examine or contrast the oral and documentary evidence *de novo*, this Court has the authority to review and, in proper cases, reverse the factual findings of lower courts when the findings of fact of the trial court are in conflict with those of the appellate court.^[34] In this light, our review of the records of this case is justified.

In essence, petitioner seeks relief before this Court, on the contention that the registered Free Patent from which respondent derived her title had been issued through fraud.

We reject petitioner's contention.

A Free Patent may be issued where the applicant is a natural-born citizen of the Philippines; is not the owner of more than twelve (12) hectares of land; has continuously occupied and cultivated, either by himself or through his predecessors-in-interest, a tract or tracts of agricultural public land subject to disposition, for at least 30 years prior to the effectivity of Republic Act No. 6940; and has paid the real taxes thereon while the same has not been occupied by any other person.^[35]

Once a patent is registered and the corresponding certificate of title is issued, the land covered thereby ceases to be part of public domain, becomes private property, and the Torrens Title issued pursuant to the patent becomes indefeasible upon the expiration of one year from the date of such issuance. However, a title emanating from a free patent which was secured through fraud does not become indefeasible, precisely because the patent from whence the title sprung is itself void and of no effect whatsoever.^[36]

On this point, our ruling in *Republic v. Guerrero*,^[37] is instructive: