

## THIRD DIVISION

[ G.R. NO. 163751, March 31, 2006 ]

**ANECITO CALIMPONG AND WIFE [NARCISA YGUAS],<sup>\*</sup>  
PETITIONERS, VS. HEIRS OF FILOMENA GUMELA REPRESENTED  
BY FLAVIA MOLINA, RESPONDENT.**

### DECISION

**CARPIO MORALES, J.:**

Complying with the order issued on December 10, 1927 by Auxiliary Judge Mariano Buyson Lampa of the then Court of First Instance of Zamboanga in Cadastral Case No. 5, G.L.R.O. Record No. 757 for the registration, in accordance with the provisions of the Land Registration Act, of Lot No. 3013 of the Cadastral Survey of Dipolog (the lot) located in Anastacio, Polanco, Zamboanga del Norte in the names of Filomena, Dionisio, Eusebio, Victoria, Fortunata, Serapio, Hipolito, Victor, Romualdo and Miguel, all surnamed Gumela <sup>[1]</sup> who were therein decreed "the owners in fee simple" of the lot, Decree No. 342638 was issued on October 19, 1928, as attested by Enrique Altavas, Chief of the General Land Registration Office. Despite the issuance of the decree, it appears that no certificate of title was issued and registered in the names of the Gumelas.

By the claim of the Heirs of the Gumelas (the heirs), they hired an overseer in-charge of the cultivation of the lot.

In 1992, the heirs agreed to partition the estate of their predecessors-in-interest which includes the lot. They soon learned, however, that the lot was being occupied by Anecito Calimpong (Calimpong).

It turned out that Calimpong filed in 1976 an application for Free Patent over the lot, which application he followed up with the Bureau of Lands when his possession was "disturbed" by the heirs.

The heirs thus filed on July 27, 1993 before the Regional Trial Court of Dipolog City a complaint <sup>[2]</sup> for quieting of title, damages, with prayer for preliminary injunction against Calimpong and his wife.

In the meantime, Provincial Environment and Natural Resources Officer (PENRO) Hilarion L. Ramos approved Calimpong's Free Patent application, by Order <sup>[3]</sup> of August 17, 1993, in light of the following findings:

1. That the applicant is a natural-born citizen of the Philippines and is otherwise qualified to acquire public lands through Free Patent;
2. That the land applied for has been classified as alienable and disposable and is subject to disposition under the public land laws;

3. That upon investigation conducted by Deputy Public Land Inspector Marciano I. Carangan, whose report was duly indorsed by LMO-III Designate, Ramon S. Pacatang, it was found out that the land applied for has been occupied and cultivated by the applicant himself and/or through his predecessor-in-interest, since July 4, 1945 or prior thereto;
4. That the Notice of the acquisition of the land by the Applicant under this application has been published in accordance with Law and that no person has proven a better right to the land applied for;
5. That the claim of the applicant is in all other respects, complete and there is no records in this office or any obstacle to the issuance of patent; and
6. That there is no adverse claim involving the land applied for still pending determination in this office; (Underscoring supplied)

Accordingly, the Order disposed as follows:

WHEREFORE, the occupation and cultivation of the land applied for as described in the caption hereof is hereby confirmed and this application is then hereby entered in the records of this office as Free Patent Entry No. 372.

As the applicant has already complied with all the requirements of the law for the issuance of the corresponding patent to the land, it is also hereby ordered that the necessary patent be prepared for the issuance in favor of the Applicant. <sup>[4]</sup> (Underscoring supplied)

On August 17, 1993, Patent No. 09721093961 was issued to Calimpong which was forwarded to the Register of Deeds of Zamboanga del Norte for registration and issuance of the corresponding certificate of title. <sup>[5]</sup>

On August 19, 1993, Original Certificate of Title (OCT) No. P-33780 <sup>[6]</sup> was issued by and registered in the Register of Deeds for the Province of Zamboanga del Norte in the name of Calimpong.

To the complaint of the heirs, the spouses Calimpong alleged in their September 3, 1993 Answer with Counterclaim<sup>[7]</sup> that, *inter alia*, assuming that the lot was adjudicated to the Gumelas, "the same ha[d] been considered long abandoned because neither the adjudicatee[s] nor any of the heirs have pursued the titling of the land, cultivation, improvement and possession." In any event, the spouses Calimpong informed that a Free Patent and an OCT over the lot had already been issued in the name of Calimpong by the Register of Deeds of Zamboanga del Norte.

The heirs thus filed a Motion to Admit Amended Complaint <sup>[8]</sup> impleading as additional defendants PENRO and the Register of Deeds of Zamboanga del Norte, seeking as additional reliefs the nullification of OCT No. P-33780 and Free Patent No. 09721093961.

The amended complaint [9] was admitted by the Dipolog RTC, by Resolution [10] of February 8, 1994.

After trial on the merits, the trial court, by Decision [11] of February 28, 2001, rendered judgment in favor of the heirs. It held that, among other things, the title of the heirs is based on a grant thereof to their predecessors-in-interest by the government in cadastral proceedings and by such grant, the lot ceased to be part of public domain as it had become private property, hence, not subject to free patent application. It thus concluded that the free patent and the title issued to Calimpong were null and void. The decretal portion of the trial court's decision reads:

WHEREFORE, premises considered, the Court declares the herein plaintiffs being the hereditary successors of the adjudicatees mentioned in the Decree (Exhibit "L"), are the rightful owners of Lot No. 3013, Cad. Survey of Dipolog under Cad. Case No. 5, L.R.C. Cad. Record No. 757, situated at Anastacio, Polanco, Zamboanga del Norte and, as prayed for in the complaint, in order to remove clouds cast on it by the claim of the defendants Free Patent No. 09721093961 issued by the PENRO of Zamboanga del Norte, as well as the Original Certificate of Title No. P-33780 issued by said office and the Office of the Register of Deeds of Zamboanga del Norte, are hereby declared null and void; the defendants are hereby ordered to turn over the peaceful possession of the land in question unto plaintiffs; the plaintiffs, upon proper petition filed in Court, may ask the Register of Deeds of Zamboanga del Norte to cause the issuance of a Certificate of Title under the same terms and conditions as stated in the Decree issued to Lot No. 3013, with such decree as basis thereof.

No damages awarded, the same not being proved. [12] (Underscoring supplied)

On appeal, the appellate court, by the challenged Decision [13] of January 26, 2004, affirmed in toto that of the trial court.

Hence, the present petition of the spouses Calimpong (hereafter petitioners) faulting the appellate court in:

1. . . . [not] holding that [they are the] true and real owners of the land in question[.]
2. . . . [not] declaring . . . Original Certificate of Title No. P-33780 .. as valid and legally issued[.]
3. . . . giving weight to the alleged title in the name of respondent's predecessors in interest which was not found or existing in the records of the Register of Deeds neither presented or offered in evidence by them[.]
4. . . . appreciating in respondents' favor their inability to show proof that they ever filed a petition for judicial reconstitution of said title, if at all, it actually existed[.]