

THIRD DIVISION

[G.R. No. 152947, July 07, 2004]

**EAST ASIA TRADERS, INC., PETITIONER, VS. REPUBLIC OF THE
PHILIPPINES, REPRESENTED BY THE DIRECTOR, LANDS
MANAGEMENT BUREAU, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[1] dated November 26, 2001 and the Resolution^[2] dated April 9, 2002, both rendered by the Court of Appeals in CA-G.R. SP No. 59627, "*East Asia Traders, Inc. vs. Hon. Regional Trial Court (RTC), Tanauan, Batangas, Branch 83, and Republic of the Philippines, represented by the Director of Lands Management Bureau.*"

The factual antecedents as borne by the records are:

On December 15, 1986, Galileo Landicho filed with the Bureau of Lands, District Office at Lemery, Batangas, Free Patent Application No. 1427. This application^[3] covers Lot No. 4355 consisting of 00.1312 hectare situated in Niogan, Laurel, Batangas. On March 6, 1987, then Acting District Land Officer Constante Asuncion, approved^[4] the application and issued Free Patent No. 1516 in Landicho's name. Subsequently or on January 22, 1988, the Registry of Deeds of Tanauan, Batangas issued to him Original Certificate of Title (OCT) No. P-3218.

On June 7, 1989, Landicho sold the lot to Teresita Reyes. Forthwith, Landicho's OCT No. P-3218 was cancelled by the same Registry of Deeds and in lieu thereof, TCT No. 36341 was issued in the name of Teresita Reyes. In turn, on June 7, 1990, Reyes sold the same lot to East Asia Traders, Inc., *petitioner*, represented by its Vice-President, Betty Roxas Chua. Consequently, the Register of Deeds cancelled TCT No. 36341 in the name of Reyes and in lieu thereof, issued TCT No. 38609 in the name of petitioner.

Meanwhile, the Department of Environment and Natural Resources (DENR), pursuant to Section 91 of Commonwealth Act No. 141, as amended,^[5] conducted an investigation to ascertain the truth of the material facts alleged in various free patent applications or whether they are maintained and preserved in good faith. The investigation covered several parcels of land, including Lot 4355. The DENR found that at the time Landicho applied for a free patent, Lot 4355 was inalienable, being a property of public dominion intended to be used as a national road.

This prompted the Republic of the Philippines, *respondent*, through the Director of the Lands Management Bureau to file, on March 9, 1998, with the Regional Trial

Court (RTC), Branch 83, Tanauan, Batangas, a complaint for reversion and cancellation of Free Patent No. 1516, OCT No. P-3218 and its derivative titles (TCT No. 36341 and TCT No. 38609), docketed as Civil Case No. CT-98-001. Impleaded as defendants were petitioner East Asia Traders, Inc., Landicho, Reyes, and the Register of Deeds of Tanauan, Batangas.

Instead of filing an answer, petitioner, on September 14, 1998, filed a motion to dismiss the complaint on the following grounds: (1) the cause of action has prescribed; (2) *litis pendentia*; and (3) the complaint fails to state a sufficient cause of action.

On January 11, 2000, the RTC issued an Order **denying petitioner's motion to dismiss** for lack of merit. Petitioner's motion for reconsideration was likewise denied in its Order dated May 31, 2000.

Petitioner then filed with the Court of Appeals a petition for certiorari and prohibition (with prayer for issuance of a temporary restraining order and a writ of preliminary injunction) seeking to nullify the trial court's (1) Order dated January 11, 2000 denying petitioner's motion to dismiss; and (2) Order dated May 31, 2000 denying its motion for reconsideration.

On November 26, 2001, the Appellate Court rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing, the herein 'Petition for Certiorari and Prohibition with Prayer for the Issuance of Temporary Restraining Order and Writ of Preliminary Injunction' is **DENIED DUE COURSE** and, accordingly, **DISMISSED**, for lack of merit. The assailed Orders dated January 11, 2000 and May 31, 2000 of the Regional Trial Court, Branch 83, Fourth Judicial Region, Tanauan, Batangas, are **UPHELD** and **REITERATED**.

SO ORDERED."

The Court of Appeals ratiocinated as follows:

"As to the first ground for the petition, petitioner East Asia Traders, Inc. contends that respondent court committed an error when it denied its Motion to Dismiss despite the fact that prescription had already set in against the State.

As alleged in the complaint, Galileo Landicho's application for Free Patent was approved on March 6, 1987 and subsequently registered under his name. Then, the following year, he sold the same land to Teresita Reyes who, subsequently, sold it to petitioner East Asia Traders, Inc. Gathered from the foregoing events, **it is now the contention of petitioner that the action for reversion filed by respondent Republic of the Philippines is already barred by prescription since it only filed the action for reversion on March 9, 1998, eleven (11) years after the registration of the land in question.**

We are not swayed by the argument proffered by the petitioner, simply because **prescription does not lie against the State.** x x x.

And as provided in **Article 1113 of the Civil Code**: 'All things which are within the commerce of men, are susceptible of prescription, unless otherwise provided. **Property of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription.**'

To our mind, respondent Republic could not have been more correct when it cited **Article 1108 (4) of the Civil Code**, which provides that **prescription, both acquisitive and extinctive, does not run against the State and its subdivisions.** x x x.

As to the second ground, respondent Republic correctly pointed out in its complaint that the **subject land sought to be retained by petitioner is inalienable** because subsequent investigations conducted by the DENR disclosed that the **land in question was a private land taken by the government for the construction of a national road.** Being private land, even if it belongs to the government, the same is not covered by Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act **much less can it be disposed of by the Bureau of Lands by a free patent** under Chapter VII of said Act, and even assuming that there was re-routing of the national road, the land remains under the control of the Department of Public Works and Highways (DPWH); and **even if the DPWH does not need the land anymore for road purposes, the same does not become available for application or appropriation by any private party until and unless officially released for that purpose, and even then the land can be disposed of only by sale or lease thru public bidding.** Thus, the **property in question is considered inalienable land of the public domain.**

What respondent Republic is trying to point out was that the petitioner, through fraud and/or misrepresentation, was able to procure title to the land, as in fact, there was no record of any final investigation report in the folder of the application, nor was there any indication written in the summary of the survey data that the land in question was claimed during the cadastral survey. As stated by respondent Republic, the **object of the complaint it filed was to cancel the title issued to defendant Galileo Landicho for being void *ab initio* pursuant to Section 91 of the Public Land Act.** Apparently, the Director of Lands was misled into issuing patents over the land; therefore, the patents and corresponding certificates of title are immediately infected with jurisdictional flaw, which warrants the institution of suits to revert lands to the State. x x x. Hence, **its complaint stated a valid cause of action.**

With respect to the third ground for the petition, We hold that while it is true that the land in question used to be privately owned, it was converted into public land when it was acquired by the State through the Department of Public Works and Highways for the construction of a national road. Respondent Republic maintains that **the land being public land, reserved for a specific public purpose, the same cannot be the subject of private ownership as it is beyond the**

commerce of man. Even if the proposed national road was re-routed elsewhere, it did not change the character of the land classified as public land. x x x:

x x x

But more importantly, even **assuming, *arguendo*, that Galileo Landicho's Free Patent No. (IV-3-A) 1516 and his Original Certificate of Title (O.C.T.) No. P-3218 issued on March 6, 1987 were valid, the sale to Teresita Reyes of the property on June 7, 1989 and her Transfer Certificate of Title (T.C.T.) No. T-36341 issued pursuant thereto, as well as Reyes' sale thereof to petitioner East Asia Traders, Inc. on June 7, 1990 and its title, T.C.T. No. T-38609 subsequently issued, were all unlawful and null and void, as the acquisition, conveyance, alienation, and transfer of the property were made and executed within five (5) years from the issuance of Landicho's free patent and title on March 6, 1987, in flagrant violation of Sections 118 and 124 of the Public Land Act (Com. Act No. 141)** x x x:

x x x

Hence, since the sale of the land subject of this case in favor of petitioner East Asia Traders, Inc. was null and void and of no legal force and effect, it did not acquire any right over the land whatsoever.

Consequently, respondent Regional Trial Court did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its assailed Orders denying petitioner's motion to dismiss and motion for reconsideration in Civil Case No. CT-98-001."

Petitioner then filed a motion for reconsideration but was denied by the Appellate Court in its Resolution dated April 9, 2002.

Petitioner, in the instant petition, submits for our resolution the following issues:

"I

WHETHER OR NOT PRESCRIPTION HAS ALREADY SET IN AGAINST THE STATE.

II

WHETHER A PRIVATE LAND, THE SUBJECT MATTER OF THE INSTANT PETITION, CAN BE THE PROPER SUBJECT OF REVERSION PROCEEDINGS.

III

WHETHER OR NOT THE COMPLAINT FILED BY THE RESPONDENT STATES A CAUSE OF ACTION AGAINST PETITIONER DESPITE ITS FAILURE TO ALLEGE THEREIN THAT PETITIONER WAS A BUYER IN BAD FAITH OR

HAD KNOWLEDGE OF THE DEFECT OR FLAW IN THE TITLE OF ITS PREDECESSORS-IN-INTEREST.”

Petitioner contends that **respondent’s action for reversion**, filed only on March 9, 1998 or more than 11 years after the approval and issuance of a free patent by the Bureau of Lands, is already **barred by prescription**. Respondent’s **complaint states no cause of action**, not only because it **failed to allege** that Lot 4355 was acquired in **bad faith** and with **notice of defect or irregularity in its title**, but also because the same **lot has become a private land** and **ceased to be part of the public domain** after the registration of the patent and the issuance of the corresponding certificate of title. Moreover, **TCT No. 38609** issued by the Register of Deeds in its name, being one of the derivative titles of OCT No. P-3218 registered on the basis of a free patent, **became infeasible after the lapse of one year** as provided in Section 32 of P.D. No. 1529 (formerly Act No. 496, §38).^[6] Petitioner then maintains that the Appellate Court should not have sustained the trial court’s denial of the motion to dismiss.

In his comment, the Solicitor General asserts that the State, in an action for reversion of inalienable land of the public domain, is not bound by prescription or laches for public policy requires an unimpeded exercise of its sovereign function. Petitioner’s defense of infeasibility of a certificate of title is not tenable considering that TCT No. 38609 issued in its name is void *ab initio* and does not form part of the Torrens system. The Solicitor General, citing Section 118 in relation to Section 124 of the Public Land Act, further asserts that the sale of the subject lot within the 5-year prohibited period, being unlawful, nullifies the patent originally issued and justifies the reversion of the property to the State.

Petitioner basically contends before the Court of Appeals that the RTC acted without or in excess of jurisdiction or with grave abuse of discretion when it denied the motion to dismiss the complaint in Civil Case No. CT-98-001.

The petition for certiorari and prohibition filed by petitioner with the Court of Appeals is not the proper remedy to assail the denial by the RTC of the motion to dismiss. **The Order of the RTC denying the motion to dismiss is merely interlocutory**. An interlocutory order does not terminate nor finally dispose of the case, but leaves something to be done by the court before the case is finally decided on the merits. It is always under the control of the court and may be modified or rescinded upon sufficient grounds shown at any time before final judgment. This proceeds from the court’s inherent power to control its process and orders so as to make them conformable to law and justice. The only limitation is that the judge cannot act with grave abuse of discretion, or that no injustice results thereby.^[7]

In *Indiana Aerospace University vs. Commission on Higher Education*,^[8] we held:

“An order denying a motion to dismiss is interlocutory, and so the proper remedy in such a case is to appeal after a decision has been rendered. A writ of certiorari is not intended to correct every controversial interlocutory ruling; it is resorted only to correct a grave abuse of discretion or a whimsical exercise of judgment equivalent to lack of jurisdiction. Its function is limited to keeping an inferior court within its jurisdiction and to relieve persons from arbitrary acts – acts which courts or judges have no power or authority in law to