

## FIRST DIVISION

[ G.R. No. 151440, June 17, 2003 ]

**HEIRS OF SIMPLICIO SANTIAGO, REPRESENTED BY ANGELITA S. CASTRO, PETITIONERS, VS. HEIRS OF MARIANO E. SANTIAGO, RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

A free patent issued over a private land is null and void and produces no legal effects whatsoever. *Quod nullum est, nullum producit effectum*.<sup>[1]</sup> Free patent applications under the Public Land Act<sup>[2]</sup> apply only to disposable lands of the public domain, and not to private lands which became such by virtue of a duly registered possessory information or by open, continuous, exclusive, and notorious possession, of the present or previous occupants.<sup>[3]</sup>

This petition seeks to reverse and set aside the December 3, 1999 decision<sup>[4]</sup> of the Court of Appeals in CA-G.R. CV No. 42761, which reversed and set aside the December 3, 1999 decision<sup>[5]</sup> of the Regional Trial Court of Malolos, Bulacan, Branch 27 in Civil Case No. 7401-M.

The instant controversy involves a 574 square meter parcel of land known as Lot No. 2344, Cad-349,<sup>[6]</sup> located in Poblacion, Angat, Bulacan, which was formerly owned by the spouses Vicente Santiago and Magdalena Sanchez. The spouses had five children, among whom were Pablo and Marta. Pablo is the father of Simplicio Santiago and Guillermo Santiago; while Marta is the mother of Jose Santiago.<sup>[7]</sup>

On April 3, 1984, petitioners, the heirs of Simplicio Santiago, initiated a complaint<sup>[8]</sup> for *accion publiciana* with damages against Mariano Santiago, son of Jose Santiago.<sup>[9]</sup> They alleged that Lot 2344 was acquired by Simplicio by purchase from his father, Pablo, and brother, Guillermo.<sup>[10]</sup> When Simplicio retired from government service in 1968, he constructed a house on the said lot.<sup>[11]</sup> Before his demise on May 6, 1983, he applied for a free patent,<sup>[12]</sup> which was granted. Thus, on September 26, 1980, Original Certificate of Title No. P-10878 covering Lot 2344 was issued in his name.<sup>[13]</sup> Sometime in 1983, Mariano Santiago, through stealth and evident bad faith, constructed a house on a portion of Lot 2344 and refused to vacate the premises despite written and oral demands.<sup>[14]</sup>

At the trial, twenty-three-year old Nestor Santiago, one of the children of Simplicio Santiago, admitted that since he attained the age of reason, the house of Mariano Santiago was already existing in Lot No. 2344-C. His father allegedly advised Mariano to remove the house but the latter refused to do so.<sup>[15]</sup>

In his answer,<sup>[16]</sup> Mariano Santiago contended that Lot 2344 was subdivided into three portions, *i.e.*, Lot 2344-A, with an area of 168 square meters; Lot 2344-B, with an area of 349 square meters; and Lot 2344-C, with an area of 57 square meters.<sup>[17]</sup> Petitioners owned only Lot 2344-B, and Lots 2344-A and 2344-C, containing an area of 225 square meters, was fraudulently included in the free patent and certificate of title issued to Simplicio Santiago. Mariano testified that he and his sister, Belen S. Marcelo, purchased Lot 2344-A from Simplicio Santiago for the price of P5,000.00, as evidenced by a deed of sale dated September 15, 1972.<sup>[18]</sup> Immediately after the sale, they constructed a house on the lot.<sup>[19]</sup> Without their knowledge, however, Simplicio secured a free patent and an original certificate of title over the entire Lot 2344. On the other hand, he and his sister inherited Lot 2344-C from their grandmother, Marta Santiago, who in turn inherited the lot from her parents, Vicente and Magdalena. During her lifetime, Marta had been living in the house built on the said lot.<sup>[20]</sup> When Mariano was born in 1926, the house was still made of *nipa*, but it was subsequently improved in 1931 and 1952 into a house of strong materials.<sup>[21]</sup>

Mariano's testimony was corroborated by seventy-year old Socorro Ocampo,<sup>[22]</sup> first cousin of Simplicio and Mariano's father, Jose, and by fifty-two-year old Flordeliza Austria,<sup>[23]</sup> a long-time neighbor of the parties. Both witnesses testified that since they were still children, the house of Marta where she and Mariano's family resided was already existing on Lot 2344-C.

On August 6, 1991, the trial court rendered a decision in favor of petitioners. It found that Mariano's claim over the controverted lot lacks basis and held that his defense constitutes a collateral attack on the validity of a Torrens title which was barred by prescription for having been raised more than one year after the entry of the decree of registration. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant:

1. Declaring the plaintiffs, children and heirs of the late Simplicio Santiago, the owners of the property covered by Original Certificate of Title No. P-10878 of the Registry of Deeds of Bulacan, which is registered in the name of Simplicio Santiago;
2. Ordering the defendant Mariano Santiago to remove and vacate the 57 square meter portion of the property covered by said title (O.C.T. No. P-10878) on which his house is established and surrender the possession thereof to the plaintiffs;
3. Dismissing/denying all claims and counterclaims for damages by the parties.

No pronouncement as to costs.

SO ORDERED.<sup>[24]</sup>

Meanwhile, Mariano died on July 5, 1993 and was substituted by his heirs.<sup>[25]</sup>

Respondents appealed to the Court of Appeals which reversed the decision of the trial court on December 3, 1999. It sustained respondents' claim over Lots 2344-A and 2344-C and ruled that the Free Patent and the Original Certificate of Title issued in favor of Simplicio Santiago are void, because Lot 2344 is a private land which cannot be the subject of a Free Patent. The decretal portion thereof states:

WHEREFORE, premises considered, the decision dated August 6, 1991 is hereby REVERSED and SET ASIDE and in its stead another judgment is rendered in favor of the appellant and against the appellees as follows:

- a. declaring the Free Patent Title under O.C.T. No. P-10878 (Exh. "A") null and void;
- b. declaring the appellants the absolute owner of the 225 square meters of Lot 2344, designated as Lot 2344-A and 2344-C (Exhs. "2-A" & "2-B", respectively;
- c. declaring the appellees the absolute owners of 349 square meters of Lot 2344, designated as Lot No. 2344-B (Exh. "2-C");
- d. ordering the appellees to pay the costs.

SO ORDERED.<sup>[26]</sup>

Hence, the instant petition.

The main issues are: (1) whether or not the free patent and the certificate of title issued to Simplicio Santiago are valid; and (2) whether or not respondents' claim over Lots 2344-C and 2344-A is supported by the evidence.

The settled rule is that a free patent issued over a private land is null and void, and produces no legal effects whatsoever. Private ownership of land — as when there is a *prima facie* proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants — is not affected by the issuance of a free patent over the same land, because the Public Land law applies only to lands of the public domain. The Director of Lands has no authority to grant free patent to lands that have ceased to be public in character and have passed to private ownership. Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain.<sup>[27]</sup>

In the instant case, it was established that Lot 2344 is a private property of the Santiago clan since time immemorial, and that they have declared the same for taxation.<sup>[28]</sup> Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good *indicia* of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's

sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.<sup>[29]</sup>

Considering the open, continuous, exclusive and notorious possession and occupation of the land by respondents and their predecessors in interests, they are deemed to have acquired, by operation of law, a right to a government grant without the necessity of a certificate of title being issued. The land was thus segregated from the public domain and the director of lands had no authority to issue a patent. Hence, the free patent covering Lot 2344, a private land, and the certificate of title issued pursuant thereto, are void.<sup>[30]</sup>

Similarly in *Magistrado v. Esplana*,<sup>[31]</sup> the applicant for a free patent declared that the lots subject of the application formed part of the public domain for the sole purpose of obtaining title thereto as cheaply as possible. We annulled the titles granted to the applicant after finding that the lots were privately owned and continuously possessed by the applicant and his predecessors-in-interest since time immemorial. Likewise, in *Robles v. Court of Appeals*,<sup>[32]</sup> the free patent issued to the applicant was declared void because the lot involved was shown to be private land which petitioner inherited from his grandparents.

Respondents' claim of ownership over Lot 2344-C and Lot 2344-A is fully substantiated. Their open, continuous, exclusive, and notorious possession of Lot 2344-C in the concept of owners for more than seventy years supports their contention that the lot was inherited by Mariano from her grandmother Marta, who in turn inherited the lot from her parents. This fact was also corroborated by respondents' witnesses who declared that the house where Marta and Mariano's family resided was already existing in the disputed portion of Lot 2344 even when they were still children. It is worthy to note that although Lot 2344-C was within the property declared for taxation by the late Simplicio Santiago, he did not disturb the possession of Marta and Mariano. Moreover, while the heirs of Simplicio tried to make it appear that Mariano built his house only in 1983, Nestor Santiago admitted on cross-examination that Mariano Santiago's house was already existing in the disputed lot since he attained the age of reason. The fact that Mariano did not declare Lot 2344-C for taxation does not militate against his title. As he explained, he was advised by the Municipal Assessor that his 57 square meter lot was tax exempt and that it was too small to be declared for taxation, hence, he just gave his share in the taxes to his uncle, Simplicio, in whose name the entire Lot 2344 was declared for taxation.<sup>[33]</sup>

The Court of Appeals correctly ruled that Lot 2344-C was sold by Simplicio Santiago to Mariano Santiago and Belen Sanchez. The document of sale evidencing the transaction is duly notarized and, as such, is considered a public document and enjoys the presumption of validity as to its authenticity and due execution. This legal presumption was not overcome by petitioners.<sup>[34]</sup> Other than their allegation that the deed of sale was a forgery,<sup>[35]</sup> no other evidence was presented to substantiate their claim. Hence, the presumption of validity of the deed of sale, ceding Lot 2344-C to Mariano Santiago and Belen Marcelo, prevails.