

## FIRST DIVISION

[ G.R. No. 112115, March 09, 2001 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND CEFERINO PAREDES, JR., RESPONDENTS.**

### DECISION

**YNARES-SANTIAGO, J.:**

The instant petition for review seeks to set aside the decision<sup>[1]</sup> of the Court of Appeals dated September 30, 1993 in CA-G.R. CV No.27990, which reversed the decision<sup>[2]</sup> of the Regional Trial Court of Prosperidad, Agusan Del Sur, Branch 6, dated May 20,1988 in Civil Case No. 512.

The facts are as follows:

By way of a Deed of Sale dated August 30, 1974, private respondent Ceferino S. Paredes appears to have purchased a 1,200 square meter parcel of land (the subject land) located in San Francisco, Agusan Del Sur, from one Almario Garay. Nearly two years later, or on January 21, 1976, he filed an application for free patent over essentially the same subject land, although of a bigger area, *i.e.*, 1,391 square meters, which was known as Lot No. 3097-A, Pls-67, Rosario Public Land Subdivision, San Francisco, Agusan Del Sur. The application was approved on May 1, 1976 by the District Land Officer of the Bureau of Lands and private respondent was issued Free Patent No. (X-8) 1253. On the strength of such Free Patent, Original Certificate of Title No. P-8379 was subsequently issued in private respondent's name by the Register of Deeds of Agusan Del Sur on May 28, 1976. Private respondent then constructed his house on the subject land.

On June 27,1984, however, the Sangguniang Bayan of San Francisco, Agusan Del Sur adopted Resolution No.403, whereby it undertook to assist the Municipality of San Francisco in recovering possession of the subject lot, which it averred had been designated by the Bureau of Lands as a school site for the San Francisco Town Site Reservation, long before title to it was issued in private respondent's name. In the same Resolution, the Sangguniang Bayan also questioned the veracity of private respondent's assertion that his application for free patent was posted on the door of the San Francisco Municipal Hall, reasoning that if it was true that the application was posted, then it would have filed a protest thereto.

Soon thereafter, or on August 6, 1984, the Sangguniang Bayan, in its Resolution No. 11 requested the Director of the Bureau of Lands and the Solicitor General to file the necessary action for the cancellation of title in the name of private respondent and for the recovery of the subject land from him.

On April 25, 1985, pursuant to the request, petitioner filed a complaint for cancellation of Free Patent No. (X-8) 1253 and Original Certificate of Title No. P-

8379 issued to private respondent and for reversion of the subject land to the public domain. The complaint was later amended to include as party-defendant the Development Bank of the Philippines, to which private respondent had mortgaged the subject land.

On May 20, 1988, the trial court rendered judgment in favor of petitioner, holding as follows -

WHEREFORE, in view of all the foregoing, judgment is hereby rendered -

1. Declaring Free Patent No. (X-8) 1253 and Original Certificate of Title No. P-8379 issued to defendant Ceferino S. Paredes, Jr. as null and void; Consequently, the mortgage contract entered into by and between defendant Ceferino S. Paredes, Jr. and of defendant Development Bank of the Philippines (DBP) is a nullity;
2. Ordering defendants Ceferino S. Paredes, Jr., and Development Bank of the Philippines (DBP) to surrender the owner's duplicate of Original Certificate of Title No. P-8379 to the Register of Deeds of Agusan Del Sur and the latter to cancel the same;
3. Ordering that Lot No. 3097-A, Pls-67 and the resultant lots of the segregation survey are ordered cancelled and restoring the same Lot No. 3097 as a whole to the mass of public domain, reserved as school site as originally approved by the Bureau of Public Lands in Public Land Subdivision Survey No.67;
4. On the cross-claim of defendant Development Bank of the Philippines (DBP), it being shown that said defendant was a mortgagee in good faith and for value, as evidenced by Exhibit "3" (Mortgage Contract), judgment is hereby entered against cross-defendant Ceferino S. Paredes, Jr., to pay defendant DBP the sum of P144,000.00 representing outstanding balance of a loan, including interests and other charges thereof;
5. Costs against defendant Ceferino S. Paredes, Jr.

SO ORDERED.<sup>[3]</sup>

The said decision was, however, reversed on appeal by the Court of Appeals.

Hence, the instant petition for review anchored upon the following grounds -

- a) Free Patent No. (X-8) 1253 and Original Certificate of Title (OCT) No. P-8379 of respondent Paredes were issued contrary to our Free Patent Law and proclamation No. 336 which specifically provides that lands of public domain covered by aforesaid Proclamation could only be acquired by purchase or homestead; and that
- b) Contrary to the findings of (the) Court of Appeals, the records of this case show, as found by the trial court below, that sufficient evidence was presented to prove that respondent Paredes committed

misrepresentations, fraud and/or deceit in his application for free patent.

[4]

In support of its first assigned error, petitioner relies upon Proclamation No. 336, dated September 5, 1952, issued by then President Elpidio Quirino. The said law provides, as follows -

#### PROCLAMATION NO. 336

WITHDRAWING FROM SETTLEMENT EXCEPT BY HOMESTEAD OR PURCHASE IN SMALL PARCELS PUBLIC LANDS LOCATED ALONG PROPOSED ROAD PROJECTS IN THE ISLAND OF MINDANAO.

Pursuant to the provisions of section eighty-three of Commonwealth Act Numbered One hundred and forty-one, as amended, commonly known as the Public Land Act, I hereby withdraw from settlement, except as hereinafter provided, all lands of the public domain suitable for agricultural purposes, located within a strip six kilometers wide on each side of the following proposed roads; namely, the Zamboanga-Pagadian road in the Province of Zamboanga; the Davao-Agusan road in the Provinces of Davao and Agusan; the Labungan- Tupi road in the Province of Cotabato; and the Malaban-Maranding road in the Province of Lanao. As soon as the public lands along these roads shall have been classified as alienable and disposable and subdivided into farm lots of not more than ten hectares each in area, and residential sites are subdivided into convenient-sized lots, **any qualified individual may acquire by purchase or homestead** not more than one farm lot and purchase not more than one residential lot. The disposition of lots within these areas shall be without prejudice to existing rights. (Emphasis ours)

Private respondent, however, did not acquire the subject land by purchase or homestead, as prescribed by Proclamation No. 336. Instead, he acquired the same by Free Patent. This, alone, is sufficient to nullify private respondent's title.

Homestead Patent and Free Patent are some of the land patents granted by the government under the Public Land Act.<sup>[5]</sup> While similar, they are not exactly the same. A Homestead Patent is one issued to: any citizen of this country; over the age of 18 years or the head of a family; who is not the owner of more than twenty-four (24)<sup>[6]</sup> hectares of land in the Philippines or has not had the benefit of any gratuitous allotment of more than twenty- four (24) hectares of land since the occupation of the Philippines by the United States.<sup>[7]</sup> The applicant must show that he has complied with the residence and cultivation requirements of the law; must have resided continuously for at least one year in the municipality where the land is situated; and must have cultivated at least one-fifth of the land applied for.

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