

## THIRD DIVISION

[ G.R. No. 131277, February 02, 1999 ]

**SPOUSES FRANCISCO AND ANGELA C. TANKIKO AND SPOUSES ISAIAS AND ANITA E. VALDEHUEZA, PETITIONERS, VS. JUSTINIANO CEZAR, EUGENIO ENDAN, BONIFACIO ACLE, EUSEBIO ANTIG, JULIO ASENERO, PILAR ARBOLADURA, JUANA BALISTOY, APOLINARIO BAHADE, REMEGIO CAGADAS, TEODORO CAGANTAS, ALEJANDRO DE LA CERNA, NILO DE LA CRUZ, REMEDIOS F. COLLERA, TERESITA COLLERA, ANASTACIO DAGANDARA, HEIRS OF SOTERO ESCOLANA REPRESENTED BY LUZ ESCOLANA, HEIRS OF FELICISIMO EXCLAMADO REPRESENTED BY ALFREDO EXCLAMADO, CARLOS GOMEZ, ELEUTERIO GUIWAN, HEIRS OF TEODORO JANDAYAN REPRESENTED BY MARINA ANAYA VDA. DE JANDAYAN, HEIRS OF GUILLERMO NARISMA, IGNACIO OPAON, ANTONIO PALMA, ELADIO RAAGAS, HEIRS OF MARTIN RODRIGUEZ REPRESENTED BY LUZMINDA RODRIGUEZ ABEJARON, RUFINO SUMAMPONG, HEIRS OF ASUNCION TACDER REPRESENTED BY EUSEBIO ANTIG, DOMINGO TORDILLO, LUCIANO UAYAN AND JULIO WALAG, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

Equity may be invoked only in the absence of law; it may supplement the law, but it can neither contravene nor supplant it.

#### Statement of the Case

This principle is stressed by this Court in granting the Petition for Review on *Certiorari* before us seeking the nullity of the April 16, 1997 Decision of the Court of Appeals<sup>[1]</sup> in CA-GR CV No. 50025 and its October 13, 1997 Resolution denying reconsideration. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, the foregoing considered, the appealed decision is SET ASIDE and another one entered allowing plaintiffs-appellants to stay in the premises pending final termination of the administrative proceedings for cancellation of defendants-appellees' titles and final termination of the action for reversion and annulment of title. Let notice of lis pendens be annotated on Original Certificate of Title Nos. T-55515 and T-55516.

"Let a copy of this decision be furnished to the Director of Lands and the Office of the Solicitor General for the administrative investigation of plaintiff-appellant's complaint and [for] the eventual filing of the petition

for the cancellation of defendants-appellees' title [to] be initiated, expedited if still pending, and resolved without further delay."<sup>[2]</sup>

By the foregoing disposition, the Court of Appeals effectively reversed the February 9, 1995 Decision<sup>[3]</sup> of the Regional Trial Court of Misamis Oriental, Branch 17, which disposed:

"WHEREFORE, premises considered, the complaint filed in this case against the defendants by the plaintiffs should be, as it is hereby ordered, DISMISSED, for lack of merit. Accordingly, the defendants are hereby declared as owners of the property in litigation as evidenced by their certificates of title covering their respective portions of Lot No. 3714 and the plaintiffs, who are now possessing and occupying said parcel of land, are hereby ordered to vacate the same within ninety (90) days, so that the defendants can take possession of their respective portions and enjoy the same as owners thereof.

"The counter-claims are, likewise, dismissed for failure to prove the same. Costs against the plaintiffs."<sup>[4]</sup>

Hence, this recourse to this Court.<sup>[5]</sup>

### **The Facts**

As found by the Court of Appeals, the facts of the case are as follows:

"x x x Plaintiffs-appellants [herein respondents] are the actual occupants and residents of a portion [of land] consisting of 1 ha. 7552 sq. m. (Appellants' Brief, p. 28, Rollo) of the controverted lot, Lot No. 3714 of the Cadastral Survey of Cagayan [(Cadastral Case No. 18, L.R.C. Rec. No. 1562)] with the improvements thereon, situated in the Barrio of Lapasan, City of Cagayan de Oro x x x containing an area of ONE HUNDRED TWENTY SIX THOUSAND ONE HUNDRED AND TWELVE (126,112) SQUARE METERS, more or less (Exhibit `2'; Records, pp. 12-13).

"Plaintiffs-appellants are miscellaneous sales patent applicants of their respective portions of the aforescribed lot occupied by them [(some as far back as 1965)] and have been religiously paying taxes on the property. The action for reconveyance with damages filed before the Regional Trial Court, Misamis Oriental, Cagayan de Oro City springs from the fact that the lot in question [(Lot 3714)] had been titled under Original Certificate of Title No. O-740 issued by the then Land Registration Commission on December 13, 1977 in the name of Patricio Salcedo married to Pilar Nagac. Said OCT was issued pursuant to Decree of Registration No. N-168305 in accordance with a decision of the Cadastral Court in Cadastral Case No. 18, LRC Cad. Rec. No. 1562 dated August 6, 1941 penned by the Hon. Lope Consing (Pre-Trial Brief for Defendant Spouses Francisco and Angela Tankiko and Spouses Isaias and Anita Valdehueza, Records, p. 258). Subsequently, separate titles (Transfer Certificates of Title NO. T-55515 and T-55516) were issued to defendant-appellee Tankiko after the latter purchased Lots 3714-B, 3714-

C of the subdivision plan from the Heirs of Patricio Salcedo represented by Atty. Godofredo Cabildo, their attorney-in-fact. In turn, defendant-appellee Francisco Tankiko sold Lot 3714-C to defendant-appellees Isaias and Anita Valdehueza.

"Plaintiff-appellants contest the existence of the Consing decision and cite the decision of the Hon. Eulalio Rosete dated April 18, 1980 [in] Civil Case No. 6759 involving the neighboring lot (Lot No. 3715) likewise (formerly) covered by OCT O-740 which makes the following observation regarding Lot 3714:

`There is no record showing that a decision has been rendered in Cadastral Case No. 18; G.L.T.O Record No. 1562 adjudicating Lots Nos. 3714 and 3715 in favor of Patricio Salcedo married to Pilar Nagac. (Exh UU and VV). If there was such a decision it would have been with the records of the Land Registration Commission inasmuch [as] the decree was issued only on December 13, 1977 so that decision was still available on that date.

`On the contrary, it was the decision rendered in Epediente (sic) Catastro No. 18, G.L.R.P Record No. 1562, entitled, `Commonwealth De Pilipinas, Solicitante, Antonia Abaday, et al. Reclamantes,' rendered on December 19, 1940 which was found. This decision shows that Lots Nos. 3714 and 3715 were declared public lands. (Exh. WW-2). Said decision, rendered by Judge Ricardo Summers, reads, among others.

`xxx xxx xxx

Lote No. 3714 - Declarado terreno publico por haber sido reclamado unicamente por los Directores de Terrenos y Montes.

Lote No. 3715 - Declarado toreno publico por haber sido reclamado unificamente porlos Directores de Terrenos y Montes. (Exh WW-2-A).

xxx' (Underscoring Supplied).

xxx xxx xxx

`The Court notes that Original Certificate of Title No. [O-]740 covers not only Lot 3715, but also Lot No. 3714, a parcel of land which has been occupied and [is] now being used by the Don Mariano Marcos Polytechnic College. Before this College, the Misamis Oriental School of Arts and Trades, has been occupying and using the Lot No. 3714 since before the war. This lot was also declared public land by the Cadastral Court in Expediente Catastro No. 18 G.L.R.O. Record No. 1562, because only the Directors of Land and Forestry were the claimants (Exh WW-2-A). It would seem therefore that

Original Certificate of Title No. [O-]740 is likewise void ab initio as regards this lot. But, this Court cannot make any pronouncement on this lot because it has not been admitted for determination.'

(Records, pp. 41-43)

"In the course of the presentation plaintiffs' evidence in this appealed case, the parties submitted a stipulation of facts (Records, pp. 392, 427, 429) wherein the parties admitted the existence of Civil Case No. 6646, Regional Trial Court Branch 24, Misamis Oriental; and the Decision-Adjudicando Lotes No Controvertidos rendered by Judge Ricardo Summers in Expediente Cat. No. 18 G.L.R.O. Rec. No. 1562 on December 14, 1940 which shows on page 6 thereof that Lot 3714 was 'declarado terreno publico'. However[,] defendants asserted that Lot 3714 was subsequently adjudicated to and ordered registered in the name of Patricio Salcedo pursuant to Decree of Registration No. 168305 issued on August 6, 1941 by Judge Lope Consing but the Original Certificate of Title No. O-740 was actually issued only on December 13, 1977. Parties further stipulated to the existence of Civil Case No. 6759 referring to the neighboring Lot 3715 and the decision rendered therein supra declaring null and void Original Certificate of Title No. O-740 as regards Lot No. 3715 and containing the opinion that OCT-O740 was likewise void respecting Lot No. 3714; the existence of Civil Case No. 89-243 entitled Heirs of Bartolome Calderon, et al. vs. Salcedo, et al. which was terminated by a Judgment on Compromise Agreement recognizing Miscellaneous Sales Patent No. 4744 in favor of the Heirs of Bartolome Calderon over a 750 square meter portion of the land covered by OCT No. O-740; the existence of tax declarations and tax receipts of the plaintiff; the existence of OCT No. O-740 over Lot 3714, Subdivision Plan of Patricio Salcedo over Lot 3714, Extra-judicial Settlement of [the] Estate of Patricio Salcedo, and the Special Power of Attorney in favor of Atty. Godofredo Cabildo as attorney-in-fact of the Salcedos (pp. 4298-430, Record)."[6]

### **Ruling of the Court of Appeals**

The Court of Appeals (CA) found that Patricio Salcedo did not acquire any right or title over the disputed land and, consequently, did not transmit any registrable title to herein petitioners. Never presented as evidence was any copy of the Consing Decision, which had allegedly authorized the Decree of Registration of the property in favor of Patricio Salcedo. Evidence also shows that the land that Patricio Salcedo succeeded in registering in his name had been previously declared public land on December 19, 1940, in Expediente Cat. No. 18 penned by Judge Ricardo Summers. Under the Regalian Doctrine, no public land can be acquired by private persons without a grant from the government; since petitioners did not present any evidence that Patricio Salcedo had acquired the property from the government as a favored recipient -- by homestead, free patent or sales patent -- said property could not have been acquired by him.

As the property in dispute is still part of the public domain, respondents are not the proper parties to file an action for reconveyance, as they are not owners of the land,