

## SPECIAL TWELFTH DIVISION

[ CA-G.R. CV NO. 03726, January 26, 2015 ]

**SPOUSES LORENZO TILOS AND CONCEPCION TILOS,  
PLAINTIFFS-APPELLEES, VS. SPOUSES PASTOR PASAMATA AND  
DEMETRIA TINAJA PASAMATA, DEFENDANTS-APPELLANTS.**

### D E C I S I O N

**QUIJANO-PADILLA, J.:**

This is an appeal on the Decision<sup>[1]</sup> of the Regional Trial Court (RTC), Branch 41, Dumaguete City in Civil Case No. 2006-13917 dated October 29, 2010 divesting defendants-appellants Spouses Pastor and Demetria Pasamata of title over Lot No. 4691 and vesting the same to plaintiffs-appellees Lorenzo and Concepcion Tilos.

#### The Antecedents

Plaintiffs-appellees Spouses Lorenzo and Concepcion Tilos (Spouses Tilos) filed a case<sup>[2]</sup> for Quieting of Title, Enforcement of Implied Trust, Reconveyance and Damages against defendants-appellants Spouses Pastor Pasamata and Demetria Tinaja Pasamata (Spouses Pasamata). Spouses Tilos alleged that for forty (40) years already, and since their acquisition of Lot 4691 (the subject property), a parcel of land situated in Lunga, Valencia, Negros Oriental, they had been in open, adverse, peaceful, exclusive and continuous possession and occupation thereof in the concept of an owner. They possessed the lot even before Perfecto Abiquebel *et. al.* executed the final deed of absolute sale<sup>[3]</sup> in their favor on September 5, 1974. Since 1974 until 2004, the subject property had been declared in the name of Lorenzo Tilos and one Germana Dagoy, although the latter declarant's interest had been acquired by Spouses Tilos in 1994. Spouses Tilos had introduced improvements on the lot, such as planting it with *lanzones* and coconuts.

In the late part of 2006, Spouses Tilos were aghast when they discovered that Pastor Pasamata had obtained title over the subject property through Free Patent Title FV-37881<sup>[4]</sup> issued on April 12, 1996. Spouses Tilos contended that Spouses Pasamata obtained their title through fraud and misrepresentation since the latter had not, at any time, occupied or cultivated Lot 4691. Spouses Pasamata lacked the qualification for the grant of a free patent under Commonwealth Act No. 141 since they never possessed and tilled the subject property.

For their defense,<sup>[5]</sup> Spouses Pasamata averred that Juan Abequebel was the original owner, possessor and survey claimant of Lot 4691. They acquired the lot through purchase from the Heirs of Juan Abequebel on September 5, 1974<sup>[6]</sup> and had possessed the same since then. When they applied for a free patent title over Lot No. 4691, they were in good faith and were fully aware that per records of the Community Environment and Natural Office (CENRO), Dumaguete City, which is

under the Department of Environment and Natural Resources (DENR), only Juan Abequebel was the survey claimant of the lot. Before the issuance of the free patent title, the subject property was inspected by representatives of CENRO Dumaguete City who recommended for the issuance of the title after finding that Spouses Pasamata were the actual tillers and possessors of the lot. Spouses Pasamata countered that Spouses Tilos had no legal and factual basis for their claim since the deed of absolute sale executed to them by Perfecto Abiquebel *et. al.*, stated that the land subject of the document was in Bongbong and not in Lunga, both of Valencia Negros Oriental. Also, the deed of sale by Perfecto Abiquebel *et. al.* did not mention the lot number of the property conveyed.

The case had a full-blown trial, after which, the trial court decided in favor of Spouses Tilos. The RTC ruled that Spouses Pasamata obtained their free patent title through fraud and willfull misrepresentation as they never acquired actual possession of the subject property. The dispositive portion of its decision reads, *viz.* :

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Divesting Pastor V. Pasamata and Demetria Pasamata of title over Lot No. 4691 situated at Lunga, Municipality of Valencia, Negros Oriental, covered by Original Certificate of Title No. FV-37881; and
2. Title over Original Certificate of Title No. FV-37881 covering Lot No. 4691 situated at Lunga, Municipality of Valencia, Negros Oriental is vested in favor of Lorenzo Tilos and Concepcion Tilos.

No Costs.

SO ORDERED.<sup>[7]</sup>

Aggrieved, Spouses Pasamata appealed<sup>[8]</sup> to Us and assigned the following errors, <sup>[9]</sup> to wit:

1. THAT THE LOWER COURT COMMITTED A GRAVE ERROR IN CONCLUDING THAT KATIBAYAN NA ORIHINAL NA TITULO BLG. FV-37881 COVERING LOT NO. 4691 WAS ISSUE BY VIRTUE OF FRAUD AND MISREPRESENTATION BY DEFENDANTS- APPELLANTS;
2. THAT THE LOWER COURT ERRED IN DIVESTING DEFENDANTS- APPELLANTS OF TITLE OVER LOT NO. 4691 ON THE BASIS OF AN ACTION WHICH IS A COLLATERAL ATTACK ON DEFENDANTS- APPELLANTS['] TITLE.

### **This Court's Ruling**

The appeal is without merit.

On the first assigned error, Spouses Pasamata banked on the principle of regularity in the performance of official functions by the personnel of CENRO, Dumaguete City. They cited the long and tedious process that they had to comply before their patent

application was granted, and the various documents supporting their patent application, as grounds negating the trial court's view that their title was issued through fraud and representation.

According to Spouses Pasamata, the trial court's conclusion was based only on the self-serving claim by Spouses Tilos that the latter had been in possession of the property for about 40 years. Spouses Pasamata called attention to the following points that were supposedly adverse to the claim of Spouses Tilos, to wit: the land bought by Spouses Tilos did not have a lot number and had metes and bounds that were different with Lot 4691; the tax declaration indicated in the deed of sale in favor of Spouses Tilos was in the name of Spouses Pasamata; Spouses Tilos' vendees, Perfecto Abiquebel, *et. al.*, had no tax declaration in their names and did not have any record in the office of the CENRO, Dumaguete City that they were the survey claimants of the subject lot.

The contentions are without merit.

Spouses Pasamata cannot successfully invoke the presumption of regularity in the performance of official duty because the presumption is precisely just that — a mere presumption; it can be overthrown by proofs to the contrary.

The records of this case reveal that the DENR personnel who made an ocular inspection on the property did not really conduct an exhaustive investigation thereon since she relied solely on the information given to her by Spouses Pasamata who were also the patent applicants. The said DENR personnel did not even endeavor to solicit a disinterested information from the *barangay* captain as to who was really the possessor of the subject lot.<sup>[10]</sup> The DENR personnel's lack of basic prudence being on record, the presumption of regularity in the performance of official duty could no longer sustain Spouses Pasamata's position. More importantly, the applicability of the principle cannot stand against the evidence that Spouses Pasamata indeed misrepresented in claiming that they were the possessors of the property.

Section 44 of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended by Republic Act No. 6940,<sup>[11]</sup> provides for the qualification of an applicant for the grant of a free patent over agricultural public land, thus:

Section 44. - **Any natural-born citizen of the Philippines** who is not the owner of more than twelve (12) hectares and who, **for at least thirty (30) years prior to the effectivity of this amendatory Act, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon while the same has not been occupied by any person** shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares.

The evidence shows that they had not met the requirement for continuous occupation and cultivation of the subject property. Pastor Pasamata himself made several admissions during the trial that worked against the claim that they were the

ones in possession of the property. The relevant portions of his testimony are quoted as follows, viz.:

CROSS EXAMINATION: ATTY. PERSEPHONE D.C. EVANGELISTA

Q. You are aware that if you are an owner of a property, you will also pay its taxes?

A. Yes.

Q. **So, did you check with the Assessor's Office who was paying the taxes for lot no[.] 4691?**

A. **Yes, I went there and it was Lorenzo Tilos.**

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Q. When you discovered that it was Lorenzo Tilos who was actually paying the taxes of the property, you did not entertain any doubts as to the ownership of this property?

A. **That was when I found out that there was another owner over the lot because why is it that the taxes are paid by Lorenzo Tilos?**

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Q. xxx did you inform the spouses Lorenzo and Concepcion Tilos?

A: No.

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xxx

Q. You said a while ago that you only had the property cleaned after you bought the land in 1993?

A. Yes.

Q. Is it not true that the property is also planted?

A. **There were plants.**

Q. And among those plants were lanzones?

A. **Lanzones and grass.**

Q. **And it is the Spouses Tilos who had been harvesting**