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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
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NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 12, 2020 which reads as follows:

“G.R. No. 206308 – REPUBLIC OF THE PHILIPPINES, represented by the Regional Executive Director of the Department of Environment and Natural Resources, Region-02, petitioner, versus MENA DIAZ FRANCISCO and THE REGISTER OF DEEDS OF NUEVA VIZCAYA, respondents.

This is a petition for review on *certiorari*¹ (Petition) filed under Rule 45 of the Rules of Court against the Decision² dated March 4, 2013 (assailed Decision) rendered by the Court of Appeals (CA) Fifteenth Division in CA-G.R. CV No. 97345.

The assailed Decision affirmed the Decision³ dated May 13, 2011 issued by the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, Branch 28 in Civil Case No. 5752, which, in turn, denied the Petition for Annulment of Title and/or Reversion of the Land to the State filed by the Republic of the Philippines (Republic) against Mena Diaz Francisco (Mena) and the Register of Deeds (RD) of Nueva Vizcaya.

The Facts

The facts, as narrated by the CA, are as follows:

“On January 30, 1952, Florentino Galutera [(Florentino)] filed with the Bureau of Lands (BOL) Miscellaneous Sales Patent [(MSP)] Application No. V-1584[7] over Lot 130, Cad. 45 Ext., situated in Salvacion, Bayombong,

- over – eleven (11) pages ...

¹ *Rollo*, pp. 7-28.

² *Id.* at 30-42. Penned by Associate Justice Franchito N. Diamante, with the concurrence of Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang.

³ *Id.* at 43-51. Penned by Judge Fernando F. Flor, Jr.

Nueva Vizcaya. In an Order dated September 20, 1956, the BOL awarded the said lot, which covered an area of 891 square meters, to [Florentino].

[Subsequently, Florentino relinquished his rights arising from MSP Application No. V-15847 to a certain Mercedita Francisco (Mercedita) through a Deed of Sale executed sometime in 1959 (1959 Sale).]⁴

[Later still, on October 16, 1959, Mercedita] filed her own [MSP] application for the aforementioned lot with the BOL. Said MSP application adopted the number previously assigned to Florentino, and was thus] denominated as [MSP] Application No. V-15847.

[In a subsequently executed Affidavit dated April 17, 1986, Mercedita explained that the real vendee in the 1959 Sale is her mother, Mena Francisco (Mena).]⁵

[Meanwhile, a certain Buenaventura Castro (Buenaventura) filed MSP Application No. V-41313 dated July 26, 1963 over a 700-square meter parcel of land denominated as Lot No. 181, Salvacion Tentative Subdivision, Nueva Vizcaya. As the evidence would later show, Lot 181 is adjacent to the lot covered by Florentino's and later, Mercedita's MSP Application No. V-15847.]⁶

On February 16, 1988, the BOL issued an Order stating that 'after final survey, the [O]rder dated September 20, 1956 is modified in the sense that the disposition contained therein shall refer to Lot 130-A, Psd 11388-D containing an area of 1,074 square meters.' On even date, another Order was issued approving the transfer of rights over the subject lot from [Florentino] to [Mena].

Consequently, [MSP] No. 12012 and Original Certificate of Title (OCT) No. S-153 were issued, both in the name of [Mena].

[On July 7, 1988, Buenaventura executed a Deed of Quitclaim assigning all rights arising from MSP Application No. V-41313 to Jorge Esconde (Jorge)].⁷

On August 2, 1988 and January 4, 1990, a Petition for Adverse Claim and Additional Protest were filed by [Jorge], Rosario Albano [(Rosario)], Roberto Esconde [(Roberto)] and Alfonso Corpuz [(Alfonso)] [(collectively, Adverse Claimants)] with the BOL, alleging that the land title issued to [Mena] had

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⁴ See id. at 38, 43.

⁵ Id.

⁶ Id. at 44. See also Mena's Comment, *rollo*, p. 56.

⁷ See id.

unlawfully overlapped and encroached their lands which they had been occupying since 1964 and 1970.

In his Investigation Report dated May 15, 1990, Atty. Felicisimo C. Villaflor [(Atty. Villaflor)], who was then the Senior Legal Officer and Assistant Chief, Legal Division of the Department of Environment and Natural Resources (DENR) Region III Office, found that [the Adverse Claimants] 'were in possession and cultivation of the southeastern portion of the lot while [Mena] is also in actual possession of the northwestern portion of the lot in dispute;' that '[the houses of Mena and Mercedita] are erected on the said portion;' and that 'there was an overlapping of claims between the [Adverse Claimants' Lot 181] and [Mena's Lot 130-A] x x x.' Thus, Atty. Villaflor recommended that 'reversion proceedings of [Lot 130-A] be initiated by the Solicitor General through the Director of [L]and.'

Consequently, the [Republic of the Philippines (Republic)] filed a complaint for annulment of [OCT] No. S-153 issued in the name of [Mena] and for the reversion of the land covered by said certificate of title to the mass of the public domain [(Reversion Complaint)]. **The [Reversion Complaint], docketed as Civil Case No. 5752, was premised on the finding of the BOL that [Mena] made a misrepresentation, through her predecessor-in-interest, [Mercedita], when [the latter] stated in her [MSP] Application No. V-15847 filed on October 16, 1959 that the land applied for [(i.e., Lot 130-A)], which is the subject matter of the present case, 'had no indication of occupation or settlement.'**⁸ (Emphasis and underscoring supplied)

To support its allegations, the Republic presented, among others, the testimony of Atty. Villaflor. During trial, Atty. Villaflor explained the reasons which led him to conclude that Mena's MSP and OCT were issued through fraud and misrepresentation, thus:

["Presiding Judge]: The court observed that in your testimony you are certain that the title issued to [Mena] was obtained by fraud. Being the [Officer-in-Charge] of the investigation, what made you conclude [this]?

[Atty. Villaflor]: I have several grounds. One, the application of [Florentino] was only for 800 square meters. x x x There was an award [in] his favor which is also for 800 square meters and the transfer of [Florentino] in favor of [Mercedita and Mena] is only 400 square meters[,] more or less. During the issuance of title, the number of hectares x x x increased to 1[,]000 square meters and the possession of [Jorge and Roberto] was included to that of the possession of [Mercedita and Mena]. During the investigation, there was no proof that there was an ocular inspection which I

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⁸ CA Decision, id. at 31-32.

recorded for the application of [Mercedita]. The x x x [MSP] application of [Mercedita] stated that there [was] no trace of occupation or settlement. During the ocular inspection there [were] several applications. And that is the basis for the recommendation of the reversion of the land in dispute.”⁹ (Italics omitted)

After the Republic made its formal offer of evidence, Mena filed a demurrer to evidence, alleging that the Republic failed to meet its burden of proving, by clear and convincing evidence, that she obtained MSP No. 12012 and OCT No. S-153 through fraud and misrepresentation.¹⁰

RTC Ruling

On May 13, 2011, the RTC issued a Decision¹¹ dismissing the Reversion Complaint. The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of [Mena] and against the [Republic], granting the demurrer to evidence and dismissing the instant action for Reversion/Annulment of Title.¹²

First, the RTC held that the disparity between the land area stated in Florentino’s and Mercedita’s MSP applications on one hand, and the corresponding MSP and OCT issued in Mena’s name on the other, is a result of the BOL’s final survey which confirmed that the land area covered by said MSP applications is 1,074 square meters, and *not* 891 square meters, as previously declared by Florentino and Mercedita.¹³

In addition, the RTC noted that while Atty. Villaflor’s Investigation Report states that the Adverse Claimants were found to be in possession of a portion of Lot 130-A during his ocular inspection in 1990, the Investigation Report did not state that the Adverse Claimants were already in possession of said portion in 1959, at the time Mercedita filed MSP Application No. V-15847.¹⁴ In this connection, the RTC referred to BOL Order dated September 20, 1956, which confirmed that the land subject of MSP Application No. V-15847, that is, Lot 130-A, “is free from private claims or conflicts.”¹⁵

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⁹ RTC Decision, *id.* at 46.

¹⁰ *Id.* at 47-48.

¹¹ *Id.* at 43-51.

¹² *Id.* at 51.

¹³ *Id.* at 49.

¹⁴ See *id.* at 44, 49.

¹⁵ *Id.* at 50.

Aggrieved, the OSG appealed to the CA *via* Rule 41.

CA Ruling

On March 4, 2013, the CA issued the assailed Decision¹⁶ denying the Republic's appeal, thus:

WHEREFORE, in view of the foregoing, the instant appeal is hereby **DENIED**. The x x x Decision dated May 13, 2011 rendered by the [RTC] in Civil Case No. 5752 for Annulment of Title and/or Reversion of the Land to the State is hereby **AFFIRMED**.

SO ORDERED.¹⁷

Contrary to the Republic's assertions, the CA found that Mercedita's MSP application disclosed the presence of tenants on the disputed portion of Lot 130-A. As basis, the CA cited paragraph 3 of said MSP application, which states:

"3. I have x x x examined the land applied for and it contains no improvements or indication of occupation or settlement, except as follows: houses of tenants and to the best of my knowledge and belief it is neither timber or mineral lands, and contains no valuable deposits of guano, coal or salt."¹⁸ (Emphasis and underscoring supplied)

The CA further observed that Lot 130-A had been awarded to Florentino on September 20, 1956, *prior* to the filing of Mercedita's MSP application on October 16, 1959.¹⁹ Thus, the CA held that the correct reckoning point in determining the attendance of fraud should be the filing date of Florentino's MSP application (that is, January 30, 1952), and *not* Mercedita's (that is, October 16, 1959).²⁰ Said the CA:

x x x [W]ith the conveyance of [Florentino's] rights over [Lot 130-A] to [Mena], the patent that should have been issued to him was ordered issued by the [BOL] to [Mena] upon determination that [Florentino] had previously complied with the requirements of law and had fully paid the purchase price of the land. To Our mind, regardless of whether the [A]dverse [C]laimants were already occupying the land in question at the time of the filing of [Mercedita's MSP application] in 1959 is of no moment because in that same year, [Florentino] x x x sold his rights x x x to [Mena]. In turn, [Mena] was substituted as applicant

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¹⁶ Id. at 30-42.

¹⁷ Id. at 41.

¹⁸ Id. at 37.

¹⁹ Id.

²⁰ Id. at 38-39.

x x x in the [MSP application] filed by [Mercedita] in 1959 by virtue of an Affidavit executed by both [Mena and Mercedita] on April 17, 1986. The award to [Florentino] by the [BOL] over [Lot 130-A] had the effect of converting the same into a private one.²¹

Hence, the CA ruled that the Republic failed to establish that Mena procured MSP No. 12012 and OCT No. S-153 through fraud and misrepresentation.

The Republic received a copy of the assailed Decision on March 11, 2013.²²

On March 26, 2013, the Republic filed a motion for extension,²³ requesting an additional period of thirty (30) days, or until April 25, 2013, to file its petition for review.

The Republic filed this Petition on April 25, 2013.²⁴

The Issue

The sole issue for the Court's resolution is whether the CA erred when it affirmed the RTC Decision granting Mena's demurrer to evidence.

The Court's Ruling

The Petition lacks merit.

A demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence. It is a remedy available to the defendant, to the effect that the evidence produced by the plaintiff is insufficient in point of law, whether true or not, to make out a case or sustain an issue. The question in a demurrer to evidence is whether the plaintiff, by his evidence in chief, had been able to establish a *prima facie* case.²⁵

In this Petition, the Republic asserts anew that the evidence presented before the RTC sufficiently established that Mena's predecessor-in-interest Mercedita made a misrepresentation in MSP Application No. V-15847 to the effect that Lot 130-A "had no

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²¹ Id. at 40.

²² Id. at 8.

²³ Id. at 2-4.

²⁴ Id. at 7.

²⁵ See *Republic v. De Borja*, 803 Phil. 8, 16 (2017).

indication of occupation or settlement”²⁶ and thus employed fraud in the procurement of MSP No. 12012 and OCT No. S-153.

Evidently, the Petition calls for a reassessment of the evidence on record, particularly, the testimony of the Republic’s witnesses presented during trial.

Time and again, this Court has held that questions of fact cannot be raised in an appeal by *certiorari*. As the Court is not a trier of facts, it is beyond its function to re-examine and weigh the evidence presented before the lower courts.²⁷ Thus:

x x x [The] factual findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of their probative weight are given high respect, if not conclusive effect, unless it ignored, misconstrued, misunderstood or misinterpreted cogent facts and circumstances of substance, which, if considered, will alter the outcome of the case. The trial court is in the best position to ascertain and measure the sincerity and spontaneity of witnesses through its actual observation of the witnesses’ manner of testifying, demeanor and behavior while in the witness box.²⁸

After a careful review of the records, the Court finds no reason to deviate from the RTC’s findings, which, in turn, had been affirmed by the CA *in toto*.

The Republic’s allegation of fraud is anchored on the testimony of its witnesses which purportedly confirm that the disputed portion of Lot 130-A had been occupied by third parties as early as 1955.

In particular, the Republic quoted, in depth, the testimony of Buenaventura’s nephew Simon Quijano, Sr. (Simon) in order to emphasize that: (i) he resided in a house allegedly built on the disputed portion from **1955 to 1957**; and (ii) Jorge and Rosario built their respective houses on said portion in **1958**, after the house he resided in was transferred to Buenaventura’s Lot 181, which is adjacent to Lot 130-A.²⁹

However, the testimonies of the Republic’s witnesses, when assessed in conjunction with one another, are clearly inconsistent. As observed by the RTC:

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²⁶ *Rollo*, p. 16.

²⁷ See *Quinol v. Inocencio*, G.R. No. 213517, April 10, 2019, pp. 6-7.

²⁸ *Id.* at 7.

²⁹ See *rollo*, pp. 17-24.

While [the Republic] presented witness (*sic*) to prove occupation of third persons as early as [the] 1950's, their testimonies are inconsistent with each other. [Simon] stated that **the houses of [Jorge] and [Rosario]³⁰ were built in 1958 [on] the lot of [Mena] which was then owned by [Florentino]**. But these houses were transferred in 1961 to the lot claimed by [Buenaventura]. However, in the testimony of [Rosario], she stated that she became neighbors with [Mena] in October 1964 when she rented the house of Maxima Castro and in 1970, she transferred to the house sold to her by [Simon] which was originally the house of Lourdes Barbosa. Clearly, the two testimonies are inconsistent as to the year of occupation.³¹

Notably, Simon's and Rosario's testimonies are also inconsistent with the allegations in the Petition for Adverse Claim and Additional Protest filed by the Adverse Claimants with the BOL. Therein, the Adverse Claimants asserted that they "[had] been in [long,] open and actual possession of their lands since 1964",³² and not 1958, as Simon claims. It does not escape the Court's attention that Rosario is among the Adverse Claimants in said petition filed with the BOL.

In any case, it is worth stressing that Florentino first filed his MSP application over Lot 130-A on January 30, 1952. Pursuant thereto, BOL issued an Order on September 20, 1956 awarding said lot to Florentino. Hence, when Florentino executed the 1959 Sale in favor of Mercedita, Florentino had already complied with the requirements for issuance of an MSP under the law.

This fact is confirmed by the subsequent Order issued by the BOL on February 16, 1988 which approved the transfer of rights from Florentino to the real vendee of the 1959 Sale, Mena. To quote:

"From the records available in this Office and from the report of findings of its representative who investigated this propose[d] transfer, it appears:

x x x

2. That the transferor is up-to-date in the payment of/has fully paid the purchase price of the land;
3. The transferor has complied with the construction/cultivation requirements of [applicable] law and regulations, but [through] no fault of his own, can no longer continue with his application;

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³⁰ Also appears as "Rosie" in some parts of the *rollo*.

³¹ *Rollo*, pp. 49-50.

³² Culled from the Reversion Complaint. See *rollo*, p. 68.

x x x

7. That the said land is free from private claims or conflicts[.]”³³ (Italics omitted)

Verily, Mena derives her interest in Lot 130-A from Florentino, and *not* from the assailed MSP application filed by Mercedita. As accurately explained by the CA:

To reiterate, [Lot 130-A] was awarded to [Florentino] way back in 1956. **Even if a patent was not yet issued in his name at the time he conveyed his interest over the same to [Mena], he was already considered as the owner of the land in question.** By analogy, [the CA] would like to cite the case of *Juanico and Barredo vs. American Land Commercial Co., Inc., et al.*³⁴ [(*Juanico*)] wherein the [Court] discussed, thus:

“[In *Juanico*, t]his Court had ruled that the prior approval of the Secretary of Agriculture and Natural Resources is required only in cases of sale and encumbrance of the public land during the pendency of the application by the purchaser and before his compliance with the requirements of the law. Thus:

x x x But such approval becomes unnecessary after the purchaser had complied with all the requirements of the law, even if the patent has not been actually issued, for in that case the rights of the purchaser are already deemed vested, the issuance of the patent being a mere ceremony. Thus, ‘the execution and delivery of the patent after the right to it has become complete, are the mere ministerial acts of the officers charged with that duty’ x x x And, as it has been held, [**‘One who has done everything which is necessary in order to entitle him to receive a patent for public land has, even before the patent is actually issued by the land department, a complete acquirable estate in the land which he can sell and convey, mortgage or lease. A fortiori a contract to convey land made before the issuance of a patent but after final proof has been made and the land paid for is not illegal.’**] x x x

x x x”

The rule is that once a sales application is approved and entry is permitted, the land ceases to be part of public domain.

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³³ Culled from the RTC Decision, *rollo*, p. 50.

³⁴ 97 Phil. 221 (1955) cited in *Tan v. Court of Appeals*, 256 Phil. 1048 (1989).

In the case at bar, with the conveyance of [Florentino's] rights over [Lot 130-A] to [Mena], the patent that should have been issued to him was ordered issued by the [BOL] to [Mena] upon determination that [Florentino] had previously complied with the requirements of law and had fully paid the purchase price of the land. To Our mind, regardless of whether the adverse claimants were already occupying the land in question at the time of the filing of [Mercedita's MSP application] in 1959 is of no moment because in that same year, [Florentino] x x x sold his rights x x x to [Mena]. In turn, [Mena] was substituted as applicant x x x in the [MSP] [a]pplication filed by [Mercedita] in 1959 by virtue of an Affidavit executed by both [Mena and Mercedita] on April 17, 1986. The award to [Florentino] by the [BOL] over [Lot 130-A] had the effect of converting the same into a private one.

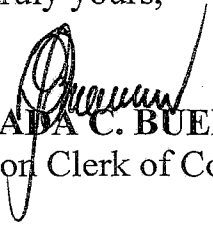
Granting for the sake of argument that there was no transfer of rights between [Florentino] and [Mena] over [Lot 130-A], [Mercedita's MSP application filed] in 1959 over the same [lot] would [have been] disapproved for the same pertained to a parcel of land that is no longer part of the public domain, having been previously awarded to [Florentino] on September 20, 1956. Moreover, even if [Lot 130-A] was still part of the public domain at the time [Mercedita] filed her application in 1959, it was not established that the adverse claimants were already in occupation of the same at that time.³⁵ (Emphasis and underscoring supplied; emphasis and italics in the original omitted)

Considering the foregoing, the Court finds no basis to overturn the findings of the lower courts, it appearing that MSP No. 12012 and OCT No. S-153, were validly issued in Mena's favor.

WHEREFORE, premises considered, the Petition is **DENIED**. The Decision dated March 4, 2013 rendered by the Court of Appeals in CA-G.R. CV No. 97345 is **AFFIRMED**.

SO ORDERED. *Reyes, J., Jr., J., on leave.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *sk 118*
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³⁵ Rollo, pp. 39-40.

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