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FIRST DIVISION

[G.R. No. 129980. September 20, 2004]

ALFREDO APUYAN, represented by ERNESTO A. ARABEJO, *petitioner, vs.* **EVANGELINE A. HALDEMAN, RENATO RADONA, DIONISIO RADONA, DOMINGO RADONA, FRANCISCO RADONA, JOSE RADONA, JR., JOSE RADONA, SR., ISIDRO RADONA, JOSE QUIJANO, EVANGELINE PARADEZA and FLOREN ARAMAN,** *respondents*.

SYNOPSIS

Petitioner filed an action for quieting of title against herein respondents alleging that he is the registered owner of a parcel of land in which respondents were claiming ownership thereof on the basis of deeds of absolute sale in their favor, which cast a doubt on his title over the property. In their answer, the respondents claimed that they have been in possession of their respective properties since 1962 and that petitioner acquired his title through fraudulent means. After both parties presented their evidence, the trial court held that petitioner was guilty of fraud and misrepresentation when he filed his application for free patent in 1985. It also ruled that the respondents are the owners of the corresponding portions of land occupied by them by virtue of the documentary and oral evidence adduced during the trial. Petitioner filed a notice of appeal from the decision, but the trial court denied the notice of appeal as petitioner only appealed from the January 7, 1997 order but not from the decision dated October 9, 1996. Petitioner brought his case to the Court of Appeals via *certiorari* and prohibition. However, the CA observed that the notice of appeal filed with the trial court was not from the decision but from the order denying the motion for reconsideration. It held that since no appeal was perfected from the trial court's decision within the reglementary period, deducting the time during which a motion for reconsideration had been pending, the decision became final and executory. Hence, the CA did not acquire jurisdiction over the case and had only the power to dismiss it. In the meantime, the trial court ordered the issuance of the writ of execution. His motion to

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quash the order of execution having been denied, the petitioner filed the present petition under Rule 45 of the Rules of Court before the Supreme Court.

The Supreme Court ruled in favor of the petitioner's timely appeal of the case. However, the Court affirmed the decision of the trial court. The Court agreed with the trial court that petitioner was guilty of fraud and misrepresentation when he filed his application for free patent. The presumed posting of notices to inform adverse claimants of petitioner's application did not change the fact that petitioner was not qualified to apply for free patent in 1985 over the subject property. Petitioner no longer occupied the subject property since 1958 because the same was occupied by herein respondents.

SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; WHEN SUBSTANTIVE ISSUE MAY BE DELVED WITH IN THE INTEREST OF SPEEDY DISPENSATION OF JUSTICE.—** The normal procedure is that the merits of the main case are to be resolved in the appeal and not in the *certiorari* proceedings to allow such appeal. In the interest of speedy dispensation of justice, we resolve to make an exception to the normal procedures considering that this case has been pending for ten years. In *Leonor v. Court of Appeals*, we made an exception to the normal procedures and delved deeper into the substantive issue of the validity/nullity of the trial court's proceedings and judgment as we also considered the delay caused to the parties of the case.

2. **CIVIL LAW; LAND REGISTRATION; PUBLIC LAND ACT (COMMONWEALTH ACT NO. 141, AS AMENDED); PROVIDES FOR QUALIFICATION OF APPLICANT FOR THE GRANT OF FREE PATENT OVER AGRICULTURAL PUBLIC LAND; NOT COMPLIED WITH IN CASE AT BAR.—** Section 44 of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended by Republic Act No. 6940, provides for the qualification of an applicant for the grant of a free patent over agricultural public land, thus: 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

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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. In this case, petitioner has not complied with the requirement of continuous occupation and cultivation of the subject property since he admitted during the trial and stated in his Memorandum that he transferred to Barangay Bato, Palauig, Zambales and resided there in 1958, so that when he filed his application for free patent in 1985, he was no longer occupying the land he was applying for in Locloc, Palauig, Zambales. In addition, respondents were then in possession of their respective portions of the property in question. Hence, petitioner could not have qualified to apply for a free patent over the subject property.

3. ID.; ID.; ID.; POSTING OF NOTICES OF APPLICATION FOR THE GRANT OF FREE PATENT, REQUIRED; PURPOSE.— Under Section 2 of Republic Act No. 782, it is the Director of Lands who shall cause notices of the application to be posted in conspicuous places in the capital of the province, the municipality and the barrio where the land applied for is situated for a period of two consecutive weeks, requiring in said notices everyone who has any interest in the matter to present his objections or adverse claims, if any, before the application is granted. Section 3 of Republic Act No. 782 further provides that at the expiration of the period of posting of the said notices, the Director of Lands, if satisfied with the truth of the statements contained in the application and in the affidavits attached thereto and that the applicant comes within the provisions of said Act, shall issue the corresponding title in favor of the applicant for the tract of land applied for if there were no objections or adverse claims registered in his office. Thus, a notice of the application did not have to be sent or given personally to the respondents since it would be posted in the municipality and barrio where the land is located. In the absence of proof to the contrary, it is presumed that the Director of Lands regularly performed his duty in causing the notice of petitioner's application to be posted in the municipality and barrio where the land is located.

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4. ID.; ID.; ID.;CANCELLATION CERTIFICATE OF TITLE ISSUED ON THE BASIS OF FREE PATENT; WHEN PROPER.— In *Republic v. Court of Appeals,* we cited *Republic v. Mina,* and *Piñero, Jr. v. Director of Lands*, thus: x x x A certificate of title that is void may be ordered cancelled. And, a title will be considered void if it is procured through fraud, as when a person applies for registration of the land on the claim that he has been occupying and cultivating it. In the case of disposable public lands, failure on the part of the grantee to comply with the conditions imposed by law is a ground for holding such title void. x x x The lapse of one (1) year period within which a decree of title may be reopened for fraud would not prevent the cancellation thereof for to hold that a title may become indefeasible by registration, even if such title had been secured through fraud or in violation of the law would be the height of absurdity. Registration should not be a shield of fraud in securing title. Justifying the above-quoted provision, the Court declared in *Piñero, Jr. v. Director of Lands*: It is true that under Section 122 of the Land Registration Act, a Torrens title issued on the basis of a free patent or a homestead patent is as indefeasible as one judicially secured. And in repeated previous decisions of this Court that indefeasibility has been emphasized by Our holding that not even the Government can file an action for annulment, but at the same time, it has been made clear that an action for reversion may be instituted by the Solicitor General, in the name of the Republic of the Philippines. It is to the public interest that one who succeeds in fraudulently acquiring title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an ever existing authority, thru its duly authorized officers, to inquire into the circumstances surrounding the issuance of any such title, to the end that the Republic, thru the Solicitor General or any other officer who may be authorized by law, may file the corresponding action for the reversion of the land involved to the public domain, subject thereafter to disposal to other qualified persons in accordance with law. In other words, the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title in order that the appropriate action for reversion may be filed by the Government. It is, therefore, clear that a certificate of title, issued

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on the basis of a free patent, that is procured through fraud or in violation of the law may be cancelled, and indefeasibility of the title is no defense. A private person is, as a rule, not the proper party to bring such a suit. However, this Court, in the exercise of its equity jurisdiction, may directly resolve the issue of alleged fraud in the acquisition of a public land patent although the action is instituted by a private person, to the end that substantial justice may be dispensed to the party litigants, rather than leaving the present controversy unresolved and subject to a circuitous and tedious process.

APPEARANCES OF COUNSEL

Rebeck Espiritu Law Office for petitioner.
Jose Torres Pacis for respondents.

D E C I S I O N

AZCUNA, *J.*:

This is a petition for review on *certiorari* of the Decision of the Court of Appeals dated April 29, 1997 and its Resolution dated July 22, 1997 denying petitioner's motion for reconsideration.

The factual antecedents are as follows:

On June 20, 1994, petitioner Alfredo R. Apuyan filed before the Regional Trial Court of Iba, Zambales, Branch 69, a petition[1] for quieting of title with prayer for preliminary injunction and damages against respondents, docketed as Civil Case No. RTC-1055-I. On November 3, 1994, petitioner filed an amended petition.[2] He claimed that he is the registered owner of a parcel of land, with an area of 5.5860 hectares, situated at Locloc, Palauig, Zambales, designated as Lot No. 1083 (Cad. 364-D), and covered by Original Certificate of Title No. P-11962. He alleged that respondents claim ownership over a portion of said

[1] Records, Vol. I, p. 1.

[2] *Id*. at 77.

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parcel of land on the basis of deeds of absolute sale in their favor, which cast a doubt on his title over the property.

Petitioner prayed for the issuance of a temporary restraining order and, thereafter, the issuance of a writ of preliminary injunction upon payment of a bond, and that after due proceedings, judgment be rendered, as follows:

a) Making the writ of preliminary injunction permanent.

b) Ordering the defendants, Evangeline Haldeman, Renato Radona, Dionisio Radona, Doming[o] Radona, Francisco Radona, Jose Radona, Jr., Jose Radona, Sr., Isidro Radona, Jose Quijano, Jose Sevilla, Evangeline Paradeza and Floren Araman to surrender to the Honorable Court their alleged Deeds of Absolute Sale;

c) Ordering that, after the defendants' surrender of the [Deeds] of Absolute [Sale], the same be ordered cancelled;

d) Ordering the defendants to pay jointly and severally to the plaintiff the sum of ₱20,000.00 as and for attorney's fees, plus ₱2,000.00 as and for [counsel's] court appearance fee per hearing;

e) Ordering each of the defendants to pay ₱20,000.00 as moral damages to the plaintiff, plus ₱10,000.00 exemplary damages.[3]

The trial court issued a writ of preliminary injunction after petitioner filed a bond of ₱20,000.[4]

On November 10, 1994, respondents filed an Amended Answer[5] alleging, among others, that they have been in possession of their respective properties since 1962, and that petitioner procured his title to the subject property through fraudulent misrepresentation in his application for free patent. They stated that there was an ongoing protest filed with the Department of Environment and Natural Resources (DENR) for the cancellation

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[3] *Id*. at 79-80.

[4] RTC Decision, *Rollo*, p. 57.

[5] *Supra*, note 1 at 82.

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of and/or recommendation of the DENR to cancel petitioner's title. (Respondents filed the protest within one year after the issuance of the patent to petitioner.)

Respondents also alleged that the ejectment case filed by petitioner against them was decided in their favor, and the criminal charges filed before the Fiscal's Office attacking the genuineness of their Deeds of Sale were dismissed.

Respondents prayed for the dismissal of the complaint on the ground of pendency of an action and/or lack of cause of action and, in the alternative, for the declaration of petitioner's title as null and void and that petitioner's title be cancelled.

On January 16, 1995, the trial court ordered the suspension of the hearing of the case, as prayed for by the parties' counsels, until the termination of the proceedings before the DENR.

In an Order[6] dated January 23, 1994 [should be 1995], the Regional Executive Director of the DENR, Region III, San Fernando, Pampanga, dismissed respondents' protest, thus:

> From the allegations of the protestants, it is crystal clear that the lot in dispute has already been patented and corresponding certificate of title was already issued in favor of the herein respondent, hence, in the eyes of the law, the same became private land from the time the subject patent was issued.
>
> Worthy of note at this juncture, is that the Office of the Solicitor General is presently suspending actions for either cancellation of free patent and reversion or cancellation of title involving private lands. Thus, even assuming arguendo that the protestants' allegation of fraud and misrepresentation in the acquisition of patent is true, this Office could not recommend the institution of reversion proceedings to the Office of the Solicitor General in view of the latter's suspension of all actions for reversion and/or cancellation of title. It bears stressing that the Office of the Solicitor General is the sole government agency vested by law with authority to institute reversion proceedings and/or cancellation of title. This Office believes that the protestants' rights and interest will be adequately protected and their grievances properly

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[6] *Supra*, note 1 at 99.

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ventilated if they, themselves, are the ones who will initiate appropriate action for cancellation before the ordinary court of justice.

On February 20, 1995, the trial court scheduled the case for hearing after the termination of the proceedings before the DENR.

On August 22, 1995, a pre-trial conference was held where the parties entered into a pre-trial agreement, thus:

x x x x x x x x x

2. Plaintiff and defendants admit that OCT No. P-11962 was issued in July 1993 over a parcel of land situated at Locloc, Palauig, Zambales with an area of 55,860 square meters and which is identified as Lot No. 1083, Cadastral No. 364-D, a xerox copy of which is attached as Annex "A" of the complaint which the defendants admit to be a faithful reproduction of the original.

3. Plaintiff and defendants admit that defendants are presently occupying the premises without prejudice to the submission of any survey plan to be submitted by the defendants during the trial;

4. Plaintiff and defendants admit that a protest was filed by the defendants at DENR, San Fernando, Pampanga asking for the cancellation of the title issued to the plaintiff but it was dismissed by the DENR by Order dated 23 January 1994 x x x;

x x x x x x x x x

FACTUAL ISSUES TO BE RESOLVED

1. Whether or not the issuance of Original Certificate of Title No. P-11962 was through fraud;

2. Whether or not the defendants are the owners of the corresponding portions of the land occupied by them.[7]

During the hearing held on November 21, 1995, petitioner manifested that he was no longer adducing further evidence

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[7] Pre-Trial Order, *Rollo*, pp. 58-59.

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because of the admissions contained in the Pre-trial Order dated August 22, 1995, and rested his case.[8]

Thereafter, respondents presented their evidence and established the following facts:

1) That the property subject matter of the litigation with an area of 5.9800 hectares or 59,800 square meters was declared for taxation purposes in the name of Apolinario Apuyan under Tax Declaration No. 12662 for the year 1944 (Exhibit "1").

2) On 04 September 1944, Apolinario Apuyan, then 44 years of age, Filipino and a widower, executed a *Pacto de Retro* Sale (Exhibits "2" and "2-A") in favor of Segundo Dador over the said parcel of land before Notary Public Jesus T. Amon who entered the document in his notarial register as Document No. 9, Page 3, Book I, Series of 1944, and which deed of sale was registered with the Register of Deeds on 05 September 1944 (Exhibit "2-B") for which the corresponding entry and registration fee under Official Receipt No. 0175555 (Exhibit "2-C") was paid. Apolinario Apuyan (and his heirs) failed to repurchase the property within the period of five (5) years as provided for in the *Pacto de Retro* Sale (Exhibits "2" and "2-A") and because of this Segundo Dador executed an "Affidavit for Consolidation of Ownership" (Exhibit "3") on 18 November 1949 before Notary Public Jesus T. Amon who entered the same in his notarial register as Document No. 280, Page 82, Book XII, Series of 1949 which was registered with the Register of Deeds also on 18 November 1949 (Exhibit "3-A") for which the corresponding entry and registration fees under Official Receipts Nos. A 18045186 (Exhibit "3-B") and 4095175 (Exhibit "3-C") were paid.

3) Segundo Dador declared the property for taxation purposes per Tax Declaration No. 19288 (Exhibit "4") for the year 1953 with a notation at the bottom thereof which states: "taxes paid up to and including 1952." Segundo Dador paid the corresponding real property taxes thereafter up to the year 1960 (Exhibits "4-A", "4-B", "4-C", "4-D", "4-E", and "4-F"). While the location of the property in Tax Declaration No. 12662 is Liozon, Palauig, Zambales and the location in

[8] *Supra*, note 1 at 170.

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Tax Declaration No. 19288 is Locloc Balite, Palauig, Zambales, the area and boundaries in both tax declarations are the same.

4) On 15 January 1960, Segundo Dador executed a Deed of Absolute Sale (Exhibit "4-G") in favor of Emerita Abdon, of legal age, Filipino, and widow, before Notary Public Esteban Q. Amon who entered the same in his notarial register as Document No. 3, Page 55, Book I, Series of 1960, over the subject parcel of land. Corresponding Tax Declaration No. 20362 (Exhibit "5") was issued in favor of Emerita Abdon who paid the corresponding real property taxes for the years 1961 and 1962 (Exhibits "5-A" and "5-B").

5) The subject parcel of land was mortgaged by Emerita Abdon in favor of the Rural Bank of San Narciso, Inc. per Real Estate Mortgage dated 23 May 1960 (Exhibit "6") which was registered with the Register of Deeds (Exhibit "6-A").

6) On 17 December 1964, Emerita Abdon executed a deed of absolute sale (Exhibit "9") in favor of Jose Radona over a portion of the subject parcel of land equivalent to 53,425 square meters before Notary Public Pablo M. Amog who entered the same in his notarial register as Document No. 79, Page 12, Book XV, Series of 1964, and the remaining portion of 6,000 square meters was sold to Jaime R. Abdon per Deed of Absolute Sale (Exhibits "10" and "10-A") executed by Emerita Abdon before Notary Public Pablo M. Amog on 26 January 1972 who entered the same in his notarial register as Document No. 16, Page 40, Book XVII, series of 1972.

7) Jaime Abdon sold his 6,000 square meters to the following:

   a) In favor of Salvador Radona, 2,553 square meters per Deed of Absolute Sale of a Portion of Real Estate dated 22 May 1972 (Exhibit "11") and Deed of Absolute Sale dated 09 June 1972 (Exhibit "12");

   b) In favor of Wilfredo Paradeza, 400 square meters per Deed of Absolute Sale of a Portion of Real Estate dated 09 June 1972 (Exhibit "13");

   c) In favor of Ernesto Abdon, 400 square meters per Deed of Absolute Sale of a Portion of Real Property

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dated 09 November 1972 (Exhibit "14"), and who, in turn sold the same in favor of Avelino Paradeza per Deed of Absolute Sale dated 19 April 1976 (Exhibit "4-D"). Avelino Paradeza sold the same to Evangeline Paradeza Sison per Deed of Absolute Sale dated 09 March 1978 (Exhibit "14-G");

d) In favor of Teofilo Alarcon, 1,311 square meters per Deed of Absolute Sale of a Portion of Real Property dated 09 November 1972 (Exhibits "15" and "15-A"). The same parcel of land was sold by Teofilo Alarcon to Daniel Rivas per Deed of Absolute Sale of a Portion of Real Property dated 14 September 1976 (Exhibit "15-G"). After the death of Daniel Rivas, his heirs, namely, Eustaquia Ramos, Modesta R. Mayo and Felimon Rivas executed an Extra-judicial Settlement of Estate with Absolute Sale in favor of Salvador Bergado over the same portion (Exhibit "15-J"). Salvador Bergado in turn sold the same portion to Spouses Floren Araman and Martina Asiatico per Absolute Deed of Sale dated 27 February 1980 (Exhibit "15-O"), who in turn sold the same to Evangeline Araman Haldeman per Deed of Absolute Sale dated 10 September 1987 (Exhibit "15-Q");

e) In favor of Gregorio Sevilla, 400 square meters per Deed of Absolute Sale of a Portion of Real Property dated 09 November 1972 (Exhibits "16" and "16-A");

f) In favor of Jose Quijano, 400 square meters per Deed of Absolute Sale of a Portion of Real Estate dated 29 November 1982 (Exhibits "17" and "17-A").

8) Corresponding real property taxes were paid by the defendants as appearing in Exhibits "11-A" to "11-II", "13-G" to "13-W", "15-C-1", "15-C-3" and "15-K".

9) It appears that plaintiff filed his application for free patent (page 32 of the Records) with the then Bureau of Lands under the Ministry of Natural Resources [for] the subject parcel of land sometime on April 1, 1985 and in support thereof filed a deed of relinquishment of rights and waiver

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> (Exhibit "7-F") executed by the surviving legal heirs of the deceased Apolinario Apuyan, father of the plaintiff, in favor of the plaintiff; joint affidavit (Exhibit "8-A") of a certain Ramerio Paradeza and Elpidio Vanilla; the affidavit of the plaintiff himself; the notice of application for free patent (Exhibit "7-C") which was unsigned and a letter of the department land inspector Doroteo Asuncion (Exhibit "7-E") recommending the granting of the application for free patent of the plaintiff. Apparently, there was no notice to the defendants of the application for free patent of the plaintiff. While free patent No. 037108-93-2320 was issued on 07 July 1993, the defendants Renato Radona, Evangeline Paradeza Sison, Isidro Radona, Floren Araman and a certain Jose Quijano were invited to a conference on November 24, 1993 (Exhibit "D").[9]

Petitioner, thereafter, adduced rebuttal evidence.

According to the trial court, from the rebuttal evidence adduced by petitioner, there was nothing to controvert the evidence for the respondents, except that petitioner was appointed chief of the rural police of Locloc-Balite on October 4, 1940. The trial court also found that Exhibit "E", which is the Findings/ Decision of the Chairman of the Lupong Tagapayapa at Barangay Locloc, Palauig, Zambales, shows that said chairman assumed the role of a judge of a municipal trial court and ordered the respondents to vacate the premises, which was beyond the power and jurisdiction of the Lupong Tagapayapa.[10]

The trial court held that petitioner was guilty of fraud and misrepresentation when he filed his application for free patent in 1985. It also ruled that the respondents are the owners of the corresponding portions of land occupied by them (subject to judicial or administrative legalization) not only by virtue of the documentary and oral evidence adduced during the trial of the case, but likewise by the dismissal of the ejectment case filed by petitioner against the respondents and the criminal

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[9] *Supra*, note 4 at 59-64.

[10] *Id*. at 64.

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case for falsification filed by petitioner against the respondents with the Provincial Prosecutor's Office.[11]

In its decision dated October 9, 1996, the trial court pronounced judgment, thus:

> WHEREFORE, premises considered, judgment is rendered in favor of the defendants and against the plaintiff as follows:
>
> 1) The amended petition filed by the plaintiff against the defendants is dismissed;
>
> 2) Free Patent No. 037108-93-3230 and Original Certificate of Title No. P-11962 are declared null and void;
>
> 3) The Register of Deed for the Province of Zambales is directed to cancel Original Certificate of Title No. P-11962 in the name of plaintiff Alfredo Apuyan; and
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> 4) The land in question is reverted to the public domain for which the defendants may file their application for legalization of their ownership.
>
> SO ORDERED.[12]

Petitioner received a copy of said decision on October 17, 1996. On November 4, 1996, the last day for filing an appeal, petitioner filed a motion for reconsideration, which was denied by the trial court in its Order[13] dated January 7, 1997. Petitioner received said Order of denial on January 14, 1997. On the same day, petitioner filed a Notice of Appeal,[14] thus:

> Plaintiff, by counsel unto this Honorable Court, hereby respectfully give notice that they are appealing to the Honorable Court of Appeals the order dated January 7, 1997, copy of which was received by plaintiff on January 14, 1997, the Order being contrary to law and jurisprudence and not supported by evidence.

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[11] *Id*. at 71-72.

[12] *Id*. at 72.

[13] *Rollo*, p. 73.

[14] *Id*. at 75.

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WHEREFORE, it is respectfully prayed that the entire records be forthwith elevated to the Honorable Court.

In an Order[15] dated January 22, 1997, the trial court denied the notice of appeal for lack of merit since petitioner only appealed from the Order of the Court dated January 7, 1997 denying his motion for reconsideration and not the decision itself dated October 9, 1996 which finally disposed the case.

Petitioner received the Order of January 22, 1997 on January 28, 1997. On January 31, 1997, petitioner filed a motion for reconsideration.[16] He contended that while his notice of appeal only mentioned the Order of January 7, 1997, it inadvertently failed to mention clearly that what was being appealed included the decision of October 9, 1996, although the last paragraph of said notice of appeal stated: "Wherefore, it is respectfully prayed that the entire records be forthwith elevated to the Honorable Court." He prayed that his notice of appeal be amended to include the decision of the trial court dated October 9, 1996.

On February 11, 1997, the trial court issued an Order[17] denying petitioner's motion for reconsideration, thus:

x x x x x x x x x

The record shows that on 17 October 1996, plaintiff thru counsel received a copy of the Decision dated 09 October 1996. Apparently, the 15th day from receipt of the reglementary period fell on 01 November 1996, a Friday and a holiday. The motion for reconsideration of the decision was filed on the next business day, 04 November 1996. An order dated 07 January 1997 was issued denying the motion, and a copy of which was received by plaintiff thru counsel on 14 January 1997. Subsequently, a Notice of Appeal was filed on the same day but was denied per order of the Court dated 22 January 1997 which order was allegedly received by counsel for the plaintiff

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[15] *Id*. at 76.

[16] *Id*. at 77.

[17] *Id*. at 78.

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on 28 January 1997. The motion for reconsideration under consideration was filed on 31 January 1997 or three (3) days after.

Obviously, plaintiff failed to perfect his appeal and the failure to perfect the appeal rendered the judgment of this Court final and executory (*Bank of America vs. Gerochi, Jr.*, 230 SCRA 9).

WHEREFORE, the Motion for Reconsideration dated January 30, 1997 filed by plaintiff is denied for lack of merit.

On February 14, 1997, respondents filed a Motion[18] for Issuance of a Writ of Execution. Petitioner opposed said motion on the ground of prematurity and non-compliance with the rules on notice and hearing.

The trial court, however, issued an Order[19] dated February 18, 1997 setting said motion for hearing on March 12, 1997.

On March 20, 1997, petitioner filed with the Court of Appeals a petition for *certiorari* and prohibition with prayer for issuance of a temporary restraining order and/or a writ of preliminary injunction to forestall execution of judgment. Petitioner prayed for the following reliefs:

1. Upon the filing of the instant petition and pending notice and hearing, a Temporary Restraining Order (TRO) be forthwith issued enjoining, preventing and prohibiting all the respondents from implementing, enforcing and executing any writ of execution that may be issued in this case, the purpose of which is certainly to render moot and academic and ineffectual the instant petition;

2. Upon hearing the case on its merits but before judgment, a writ of preliminary injunction be issued enjoining, preventing and prohibiting respondents from doing the acts heretofore mentioned in No. 1 above;

3. Thereafter, judgment be issued annulling and setting aside the assailed Orders dated 22 January 1997 and 11 February 1997 issued by the respondent trial court, and a new judgment

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[18] Records, Vol. II, p. 566.

[19] *Supra*, note 13 at 80.

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> be issued ordering the trial court to give due course to petitioner's notice of appeal and to reinstate petitioner's appeal therefrom.[20]

On April 29, 1997, the Court of Appeals rendered its Decision that dismissed the petition, the dispositive portion thereof stating, thus:

> ***WHEREFORE***, the present petition for *certiorari* and prohibition, with prayer for issuance of a temporary restraining order and/or a writ of preliminary injunction, is hereby ***DENIED DUE COURSE*** and the same is ***DISMISSED***.[21]

The Court of Appeals observed that "the notice of appeal filed with the [trial] court on January 14, 1997 was not from the decision, but from the order denying the motion for reconsideration, which cannot be done."[22] It stated that although the notice of appeal prayed for the elevation of the entire records to the Court of Appeals, it did not cure the defect in the notice of appeal.[23] It held that since no appeal was perfected from the trial court's decision within the reglementary period, deducting the time during which a motion for reconsideration had been pending, the decision became final and executory.[24] Hence, the Court of Appeals ruled that it did not acquire jurisdiction over the appealed case and had only the power to dismiss it.[25]

Petitioner filed a motion for reconsideration, which was denied by the Court of Appeals in its Resolution[26] dated July 22, 1997.

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[20] CA Decision, *Rollo*, pp. 47-48.

[21] *Id*. at 54-A.

[22] *Id*. at 52.

[23] *Ibid*.

[24] *Id*. at 53.

[25] *Supra*, note 21.

[26] *Supra*, note 13 at 55.

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In the meantime, on April 29, 1997, the trial court ordered the issuance of a writ of execution.[27]

On May 19, 1997, petitioner filed an Urgent Motion to Lift and/or Quash Order of Execution.[28]

On June 9, 1997, the sheriff of the trial court filed his Sheriff's Return[29] stating that he served a copy of the writ of execution to petitioner's attorney-in-fact by leaving it with his nephew, Ferdinand Valdez; that on June 6, 1997, he (the sheriff) received a photocopy of Original Certificate of Title No. P-11962 from the Register of Deeds of Zambales confirming the cancellation of the same document in compliance with the decision of the trial court.

On July 1, 1997, the trial court issued an Order[30] denying the Motion to Lift and/or Quash Order of Execution for being moot and academic considering that a return was already submitted to the trial court showing that the writ of execution was fully satisfied.

Aggrieved by the aforesaid decision and resolution of the Court of Appeals, petitioner filed the instant petition under Rule 45 of the Rules of Court.

In his Memorandum, petitioner raised the following issues:

I

WHETHER OR NOT THE COURT OF APPEALS SERIOUSLY ERRED IN HOLDING THAT THE INADVERTENT OMISSION IN THE PETITIONER'S NOTICE OF APPEAL TO INCLUDE THE TRIAL COURT'S DECISION AS BEING APPEALED FROM IS FATAL TO PETITIONER'S APPEAL.

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[27] *Supra*, note 18 at 587.

[28] *Id*. at 601.

[29] *Supra*, note 13 at 81.

[30] *Id*. at 82.

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II

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ERRED IN REFUSING TO RULE ON THE MERITS OF PETITIONER'S CASE AND TO DELVE ON THE PATENTLY ERRONEOUS DECISION OF THE TRIAL COURT.

III

WHETHER OR NOT SERIOUS ERRORS AND IRREGULARITIES WERE COMMITTED BY THE TRIAL COURT IN ITS DECISION WHEN IT ORDERED THE CANCELLATION OF THE FREE PATENT AND TITLE OF THE PETITIONER, IN REVERTING THE LAND IN QUESTION TO THE PUBLIC DOMAIN AND IN RULING THAT THE RESPONDENTS MAY FILE THEIR APPLICATION FOR LEGALIZATION OF THEIR OWNERSHIP OVER THE SUBJECT PROPERTY, OVERLOOKING THE FACT THAT PETITIONER IS THE RIGHTFUL OWNER OF THE LAND IN QUESTION AND WHOSE TITLE THERETO AND THAT OF HIS PREDECESSOR-IN-INTEREST HAD ALREADY BECOME INDEFEASIBLE AND INCONTROVERTIBLE.[31]

In his first assigned error, petitioner contends that the Court of Appeals erred in holding that his inadvertent omission to include in his notice of appeal that he was appealing from the trial court's decision was fatal to his appeal.

We agree.

Under the Rules of Court, only judgments or final orders of the Regional Trial Court shall be subject to appeal. At the time petitioner filed his notice of appeal on January 14, 1997, Rule 41 of the Rules of Court provided:

> Sec. 2. *Judgments or orders subject to appeal. — Only final judgments or orders shall be subject to appeal.* No interlocutory or incidental judgment or order shall stay the progress of an action nor shall it be the subject of appeal until final judgment or order is rendered for one party or the other.

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[31] *Id*. at 183-184.

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Section 9 of Rule 37[32] and Section 1 of Rule 41[33] of the present Rules of Civil Procedure, which took effect on July 1, 1997, provide:

Rule 37, Sec. 9. *Remedy against order denying a motion for new trial or reconsideration. — An order denying a motion for new trial or reconsideration is not appealable,* the remedy being an appeal from the judgment or final order.

Rule 41, Sec. 1. *Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case,* or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

(a) An order denying a motion for new trial or reconsideration;

x x x x x x x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special action under Rule 65. (Emphasis supplied.)

In *Republic v. Court of Appeals*,[34] we stated, thus:

. . . It is true the present Rules of Civil Procedure took effect only on July 1, 1997 whereas this case involves an appeal taken in February 1995. But Rule 37, Sec. 9 and Rule 41, Sec. 1 (a) simply codified the rulings in several cases to the effect that an order denying a motion for reconsideration is interlocutory in nature and, therefore, is not appealable. These rules, therefore, are not really new.

In this case, petitioner filed his appeal within the reglementary period. However, he did not appeal from the trial court's decision dated October 9, 1996 which disposed the case, but from the trial court's Order dated January 7, 1997, denying his motion for reconsideration of the decision of the trial court.

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[32] New Trial or Reconsideration.

[33] Appeal from the Regional Trial Courts.

[34] 322 SCRA 81, 91 (2000).

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Can we consider said appeal from the Order denying a motion for reconsideration of the judgment of the trial court as an appeal from a final order?

We rule in the affirmative.

In the recent case of *Quelnan v. VHF Philippines, Inc.*,[35] we held, thus:

> . . . [T]his Court finds that the proscription against appealing from an order denying a motion for reconsideration refers to an interlocutory order, and not to a final order or judgment. That that was the intention of the above-quoted rules is gathered from *Pagtakhan v. CIR*, 39 SCRA 455 (1971), cited in above-quoted portion of the decision in *Republic*, in which this Court held that an order *denying* a motion to dismiss an action is *interlocutory*, hence, not appealable.
>
> The rationale behind the rule proscribing the remedy of appeal from an interlocutory order is to prevent undue delay, useless appeals and undue inconvenience to the appealing party by having to assail orders as they are promulgated by the court, when they can be contested in a single appeal. The appropriate remedy is thus for the party to wait for the final judgment or order and assign such interlocutory order as an error of the court on appeal.
>
> The denial of the motion for reconsideration of *an order of dismissal of a complaint* is not an interlocutory order, however, but a final order as it puts an end to the particular matter resolved, or settles definitely the matter therein disposed of, and nothing is left for the trial court to do other than to execute the order.
>
> Not being an interlocutory order, an order denying a motion for reconsideration of an order of dismissal of a complaint is effectively an appeal of the order of dismissal itself.
>
> The reference by petitioner, in his notice of appeal, to the March 12, 1999 Order denying his Omnibus Motion — Motion for Reconsideration should thus be deemed to refer to the January 17, 1999 Order which declared him non-suited and accordingly dismissed his complaint.
>
> If the proscription against appealing an order denying a motion for reconsideration is applied to *any* order, then there would have

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[35] G.R. No. 145911, July 7, 2004.

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been no need to specifically mention in both above-quoted sections of the Rules "final orders or judgments" as subject to appeal. In other words, from the entire provisions of Rule 39 and 41, there can be no mistaking that what is proscribed is to appeal from a denial of a motion for reconsideration of an interlocutory order.

Similarly, in the instant case, the trial court's Order dated January 7, 1997 denying petitioner's motion for reconsideration of the trial court's decision dated October 9, 1996 is not an interlocutory order, but a final order, as the trial court finally resolved therein the issues raised in the motion for reconsideration, which were already passed upon in the trial court's decision.

Petitioner's reference in his notice of appeal to the Order of the trial court dated January 7, 1997 denying petitioner's motion for reconsideration should also be deemed to refer to the decision of the trial court dated October 9, 1996, which was the subject of the motion for reconsideration.

In effect, petitioner appealed from the final order of the trial court dated January 7, 1997 and the decision of the trial court dated October 9, 1996, which appeal was filed on time.

Hence, the Court of Appeals erred in dismissing the petitioner's petition for *certiorari* and in not ruling that the trial court gravely abused its discretion in refusing to give due course to petitioner's appeal.

In his second assigned error, petitioner contends that the Court of Appeals erred in not deciding the case on the merits. And in his third assigned error, petitioner questions the validity of the trial court's decision in ordering the cancellation of his free patent and title over the subject property and in reverting the property to the public domain when his title to the property is already indefeasible.

The normal procedure is that the merits of the main case are to be resolved in the appeal and not in the *certiorari* proceedings to allow such appeal.[36]

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[36] *Leonor v. Court of Appeals*, 256 SCRA 69 (1996).

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In the interest of speedy dispensation of justice, we resolve to make an exception to the normal procedures considering that this case has been pending for ten years. In *Leonor v. Court of Appeals*,[37] we made an exception to the normal procedures and delved deeper into the substantive issue of the validity/nullity of the trial court's proceedings and judgment as we also considered the delay caused to the parties of the case. We held, thus:

> . . . Upon the other hand, remanding the case back to the trial court for the perfection of the appeal and requiring the parties to relitigate in the Court of Appeals with the use of probably the same documents and arguments ventilated in the kilometric pleadings filed here would just unnecessarily clog the courts' dockets; besides, in all likelihood the parties would eventually come before this Court anyway.
>
> Also it must be observed that Virginia actually filed a proper Notice of Appeal which the trial court disallowed. Hence, she had no choice but to bring her petition for *certiorari* in the respondent Court. To constrain her to go back to said court, this time by ordinary appeal, would be tantamount to punishing her and delaying her cause for faults not attributable to her, but rather to the manifest error of the respondent trial judge.[38]

Hence, in the same manner, we proceed to decide the case on the merits to provide the parties speedy relief.

The main issue is whether or not the trial court erred in ruling that petitioner is not the rightful owner of the subject property, having procured his title to the property through fraud and misrepresentation, and that respondents are the rightful owners of the portions of the property occupied by them, subject to judicial or administrative legalization.

Petitioner claims that he is the rightful owner of the subject property by virtue of his title to the same, which has become indefeasible. Petitioner argues that the trial court erred, thus:

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[37] *Ibid*.

[38] *Id*. at 76-77.

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1) In not holding that the *pacto de retro* sale allegedly executed by Apolinario Apuyan in 1944 is a fictitious document;

2) In holding that the petitioner herein committed fraud and misrepresentation in his application [for] a free patent over the property in question;

3) In holding that petitioner gave up his claim of ownership of the property when he transferred to another place with his wife;

4) In holding that petitioner has not presented evidence showing his possession, or that he introduced improvement on the land in question;

5) In holding that the respondents were not notified of the proceedings in the petitioner's application of the free patent before the Bureau of Lands.[39]

As regards the first argument, we do not agree with petitioner that the *Pacto de Retro* Sale allegedly executed by his father in 1944 is a fictitious document.

Significantly, the *Pacto de Retro* Sale and the Affidavit for Consolidation of Ownership were both notarized and registered with the Register of Deeds; hence, they are public documents. Public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.[40] Petitioner failed to satisfactorily rebut the aforementioned evidence presented by respondents and prove that the *pacto de retro* sale is fictitious.

As the trial court correctly ruled:

Assuming for the sake of argument that the *pacto de retro* sale is fictitious, noteworthy is the fact that said contract including the affidavit for consolidation of ownership were registered with the Register of Deeds of Zambales which have the effect of giving notice to the whole world of its existence. Plaintiff (petitioner herein) should have stood guard to protect whatever rights he has. Almost fifty (50) years had lapsed when the instant case was filed. Moreover, the land subject of

[39] *Supra*, note 13 at 190-191.

[40] Rules of Court, Rule 132, Sec. 23.

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the litigation was then unregistered and could, therefore, be acquired thru acquisitive prescription. There is no question that defendants and their predecessors-in-interest were in possession of said property for more than thirty (30) years.

Article 1137 of the Civil Code provides as follows:

"Art. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted possession thereof for thirty years, without need of title or of good faith."[41]

Moreover, petitioner faulted the trial court for holding that he committed fraud and misrepresentation in his application for free patent over the property in question.

We disagree.

The trial court correctly found that petitioner was guilty of fraud and misrepresentation when he filed his application for free patent in 1985 for the following reasons:

a) He knew for a fact that his father, Apolinario Apuyan, who died in 1945, was no longer the owner of the subject parcel of land (Lot No. 1083, Cad. 364-D, Palauig Cadastre) because of the sale with right to repurchase made by his father in favor of Segundo Dador on 04 September 1944 which was duly registered with the Register of Deeds of Zambales and when plaintiff's father and his heirs failed to repurchase the property within the period of five (5) years as provided in the *Pacto de Retro* Sale, the buyer Segundo Dador executed an affidavit for consolidation of ownership which likewise was registered with the Register of Deeds of Zambales. From that time on, Apolinario Apuyan and all his successors-in-interest (his heirs) lost all their rights over the subject property and yet when the plaintiff filed his application for free patent, the heirs executed a deed of relinquishment of rights and waiver over the subject property by the surviving legal heirs of the deceased Apolinario Apuyan, father of the plaintiff, in favor of the plaintiff. Plaintiff claims that the sale with right to repurchase is fictitious as his father could not read and write. The document is more than fifty (50) years old

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[41] *Supra*, note 4 at 73-74.

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and cannot now be repudiated considering that it was registered with the Register of Deeds of Zambales and therefore a public document.

b) By his own testimony, he left Barangay Locloc-Balite sometime in 1958 or 1959 and resided at Barangay Bato, both at Palauig, Zambales, and there he started to till a land and became a vice barrio lieutenant at Barangay Bato and later became the *barangay* captain of said *barangay* as testified to by him (Tsn, 14 May 1996, pp. 9-11) as follows:

> "Q- And you said that later you transferred to Barrio Bato, when was that?
>
> A - Ever since 1958 or 1959, I was already there in Barrio Bato, sir.
>
> Q - What were you doing there in Barangay Bato?
>
> A - I was tilling a land there, sir, and when election comes (sic), I ran for the position of vice-barrio lieutenant at Barangay Bato. On the following term, I ran for barrio lieutenant until it was changed to *barangay* captain, and I won in all those elections.
>
> Q - Were you also elected as *barangay* captain?
>
> A - Yes, sir. I was even appointed by Governor Barretto as Municipal Councilor and after the term, I ran for Municipal Councilor and I won."

c) On rebuttal, plaintiff never presented any tax declaration or tax receipt showing his possession over the subject property and neither were there any evidences introduced to show that he had introduced improvements on the subject parcel of land.

x x x x x x x x x

d) In the pre-trial agreement, plaintiff admitted that defendants are in possession of the subject property and no evidence was ever presented that plaintiff was ever in possession of the property.[42]

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[42] *Id*. at 69-71.

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Further, Section 44 of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended by Republic Act No. 6940,[43] provides for the qualification of an applicant for the grant of a free patent over agricultural public land, thus:

> 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.

In this case, petitioner has not complied with the requirement of continuous occupation and cultivation of the subject property since he admitted during the trial[44] and stated in his Memorandum that he transferred to Barangay Bato, Palauig, Zambales and resided there in 1958, so that when he filed his application for free patent in 1985, he was no longer occupying the land he was applying for in Locloc, Palauig, Zambales. In addition, respondents were then in possession of their respective portions of the property in question. Hence, petitioner could not have qualified to apply for a free patent over the subject property.

Petitioner contends that the trial court erred in holding that he gave up his claim of ownership of the subject property when he and his wife lived in another barangay (Barangay Bato) in 1958 or thereabout.

We disagree.

Petitioner's transfer to Barangay Bato, Palauig, Zambales in 1958 was an abandonment of any claim he had over the subject property. As mentioned earlier, under Section 44 of Commonwealth Act No. 141, as amended, an applicant for a free patent must have, among others, "continuously occupied

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[43] Republic Act No. 6940 took effect on April 15, 1990.

[44] TSN, May 21, 1996, pp. 2-3; RTC Decision, *Rollo*, p. 70.

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and cultivated, either by himself or through his predecessors-in-interest, a tract or tracts of agricultural public lands subject to disposition" to be entitled to the issuance of such patent.

Next, petitioner contends that the trial court erred in holding that he has not presented evidence showing his possession or that he had introduced improvements on the land in question.

We disagree.

As found by the trial court, petitioner neither presented any tax declaration or tax receipt showing his possession of the property nor any evidence showing that he had introduced improvements on the land.

Petitioner, however, points out that the certification[45] issued on October 15, 1992 by Jovencio M. Mendi, OIC district supervisor of Region III, Division of Zambales, Palauig District, stating that ". . . we are fully aware that the said parcel of land [has] been continuously pursued and developed by the herein instant claimant Alfredo R. Apuyan," impliedly shows that he and his predecessor-in-interest had introduced improvements on the land.

We find that said letter/certification is insufficient to prove particular improvements introduced on the land. It also does not prove that petitioner continuously occupied and cultivated the property.

In view of petitioner's admission that he was already residing in another barangay (Barangay Bato) in 1958, we cannot give credence to petitioner's insistence that he has long been in prior, continuous possession of the subject property before the issuance of the patent, and that he merely allowed the respondents to stay on the land by tolerance.

Petitioner also contends that respondents were properly notified of the proceedings before the issuance of the free patent.

We agree.

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[45] *Supra*, note 18 at 371.

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Section 46 of Commonwealth Act No. 141, as amended, provides:

Sec. 46. If, after the filing of the application and the investigation, the Director of Lands shall be satisfied of the truth of the allegations contained in the application and that the applicant comes within the provisions of this chapter, he shall cause a patent to issue to the applicant or his legal successor for the tract so occupied and cultivated, provided its area does not exceed twenty-four hectares: *Provided*, That no application shall be finally acted upon *until notice thereof has been published in the municipality and barrio in which the land is located and adverse claimants have had an opportunity to present their claims.* (Italics supplied.)

Under Section 2[46] of Republic Act No. 782,[47] it is the Director of Lands who shall cause notices of the application to be posted in conspicuous places in the capital of the province, the municipality and the barrio where the land applied for is situated for a period of two consecutive weeks, requiring in said notices everyone who has any interest in the matter to present his objections or adverse claims, if any, before the application is granted.

Section 3[48] of Republic Act No. 782 further provides that at the expiration of the period of posting of the said notices, the Director of Lands, if satisfied with the truth of the statements

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[46] Republic Act No. 782, Sec. 2. The Director of Lands upon receipt of the application shall cause notices of the same to be posted in conspicuous places in the capital of the province, the municipality and the barrio where the land applied for is situated for a period of two consecutive weeks, requiring in said notices everyone who has any interest in the matter to present his objections or adverse claims, if any, before the application is granted.

[47] An Act to Grant Free Patents to Occupants of Public Agricultural Land Since or Prior to July Fourth, Nineteen Hundred and Forty-Five, approved on June 21, 1952.

[48] Republic Act No. 782, Sec. 3. At the expiration of the time provided in the preceding section, the Director of Lands, if satisfied of the truth of the statements contained in the application and in the affidavits attached thereto and that the applicant comes within the provisions of this Act, shall issue the corresponding title in favor of the applicant for the tract of land applied for if there had not been any objections or adverse claims registered in his office.

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contained in the application and in the affidavits attached thereto and that the applicant comes within the provisions of said Act, shall issue the corresponding title in favor of the applicant for the tract of land applied for if there were no objections or adverse claims registered in his office.

Thus, a notice of the application did not have to be sent or given personally to the respondents since it would be posted in the municipality and barrio where the land is located.

In the absence of proof to the contrary, it is presumed that the Director of Lands regularly performed his duty in causing the notice of petitioner's application to be posted in the municipality and barrio where the land is located.

To show that respondents were properly notified about his application before the issuance of the free patent, petitioner incorrectly referred to the conference held by Rolando P. Mallari, special investigator of the DENR, with respondents Renato Radona, Evangeline Paradeza Sison, Isidro Radona, Floren Araman and Jose Quijano, which was held on November 24, 1993 in connection with the protest they filed against petitioner after the issuance of the free patent.[49]

The presumed posting of notices to inform adverse claimants of petitioner's application, however, does not change the fact that petitioner was not qualified to apply for a free patent in 1985 over the subject property because he no longer occupied the same since 1958, and the property was then occupied by the respondents.

In view of the foregoing, the trial court correctly found that respondents are the rightful owners of the corresponding portions of the property occupied by them, subject to judicial or administrative legalization. It also properly dismissed petitioner's petition for the quieting of his title under Article 476[50] of the

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[49] See Exh. "D", Records, Vol. II, p. 373.

[50] Civil Code, Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance

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Civil Code, after finding that respondents' claim of ownership over the subject property is valid.

Petitioner, however, contends that his title is already indefeasible; hence, the trial court erred in ordering the cancellation of his free patent and title, and in reverting the subject property to the public domain.

In *Republic v. Court of Appeals*,[51] we cited *Republic v. Mina*,[52] and *Piñero, Jr. v. Director of Lands*,[53] thus:

> x x x x x x x x x
>
> A certificate of title that is void may be ordered cancelled. And, a title will be considered void if it is procured through fraud, as when a person applies for registration of the land on the claim that he has been occupying and cultivating it. In the case of disposable public lands, failure on the part of the grantee to comply with the conditions imposed by law is a ground for holding such title void. x x x The lapse of one (1) year period within which a decree of title may be reopened for fraud would not prevent the cancellation thereof for to hold that a title may become indefeasible by registration, even if such title had been secured through fraud or in violation of the law would be the height of absurdity. Registration should not be a shield of fraud in securing title.

Justifying the above-quoted provision, the Court declared in *Piñero, Jr. v. Director of Lands*:

> It is true that under Section 122 of the Land Registration Act, a Torrens title issued on the basis of a free patent or a

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or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

[51] 183 SCRA 620 (1990).

[52] 114 SCRA 945 (1982).

[53] 57 SCRA 386 (1974).

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> homestead patent is as indefeasible as one judicially secured. And in repeated previous decisions of this Court that indefeasibility has been emphasized by Our holding that not even the Government can file an action for annulment, but at the same time, it has been made clear that an action for reversion may be instituted by the Solicitor General, in the name of the Republic of the Philippines. It is to the public interest that one who succeeds in fraudulently acquiring title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an ever existing authority, thru its duly authorized officers, to inquire into the circumstances surrounding the issuance of any such title, to the end that the Republic, thru the Solicitor General or any other officer who may be authorized by law, may file the corresponding action for the reversion of the land involved to the public domain, subject thereafter to disposal to other qualified persons in accordance with law. In other words, the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title in order that the appropriate action for reversion may be filed by the Government.[54]

It is, therefore, clear that a certificate of title, issued on the basis of a free patent, that is procured through fraud or in violation of the law may be cancelled, and indefeasibility of the title is no defense.

It is true that under the law, it is the Solicitor General or the officer acting in his stead who is authorized under Section 101[55] of Commonwealth Act No. 141, as amended, to institute an action for reversion in the name of the Republic of the Philippines.

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[54] *Supra,* note 51 at 627-628.

[55] Commonwealth Act No. 141, Sec. 101. All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor-General or the officer acting in his stead, in the proper courts, in the name of the Republic of the Philippines.

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A private person is, as a rule, not the proper party to bring such a suit. However, this Court, in the exercise of its equity jurisdiction, may directly resolve the issue of alleged fraud in the acquisition of a public land patent although the action is instituted by a private person, to the end that substantial justice may be dispended to the party litigants, rather than leaving the present controversy unresolved and subject to a circuitous and tedious process.[56]

WHEREFORE, the Decision and Resolution of the Court of Appeals are *MODIFIED* so as to sustain petitioner's timely appeal but the decision of the trial court in Civil Case No. RTC-1055-I is *AFFIRMED*.

No costs.

SO ORDERED.

Davide, Jr. (Chairman), C.J., Quisumbing, Ynares-Santiago, and *Carpio, JJ.*, concur.

THIRD DIVISION

[G.R. No. 134172. September 20, 2004]

MIRIAM ARMI JAO YU, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent*.

SYNOPSIS

Petitioner herein was charged with 19 counts of violation of Batas Pambansa Blg. 22 and was found guilty on all counts.

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[56] *De los Reyes v. Ramolete*, 122 SCRA 652, 654 (1983), citing *Armamento v. Guerrero*, 96 SCRA 178 (1980).