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THIRD DIVISION

[G.R. No. 152141. August 8, 2011]

CORNELIO DEL FIERRO, GREGORIO DEL FIERRO, ILDEFONSO DEL FIERRO, ASUNCION DEL FIERRO, CIPRIANO DEL FIERRO, MANUELA DEL FIERRO, and FRANCISCO DEL FIERRO, *petitioners, vs.* **RENE SEGUIRAN,** *respondent.*

SYLLABUS

1. CIVIL LAW; OWNERSHIP; *ACCION REINVINDICATORIA*; REQUISITES TO PROSPER; NOT PROVED.— Article 434 of the Civil Code provides that to successfully maintain an action to recover the ownership of a real property, the person who claims a better right to it must prove two (2) things: *first*, the identity of the land claimed; and *second*, his title thereto. In regard to the first requisite, in an *accion reinvindicatoria,* the person who claims that he has a better right to the property must first *fix the identity of the land he is claiming by describing the location, area and boundaries thereof.* Anent the second requisite, *i.e.,* the claimant's title over the disputed area, the rule is *that a party can claim a right of ownership only over the parcel of land that was the object of the deed*. In this case, petitioners failed to prove the identity of the parcels of land sought to be recovered and their title thereto.

2. ID.; ID.; ID.; THE PERSON WHO CLAIMS THAT HE HAS A BETTER RIGHT TO THE PROPERTY MUST FIRST FIX THE IDENTITY OF THE LAND HE IS CLAIMING BY DESCRIBING THE LOCATION, AREA AND BOUNDARIES THEREOF.— Petitioners filed an action for reconveyance and cancellation of titles. Hence, it was incumbent on petitioners to prove the requisites of reconveyance, one of which is to establish the identity of the parcels of land petitioners are claiming. To reiterate, in an *accion reinvindicatoria,* the person who claims that he has a better right to the property must first fix the identity of the land he is claiming by describing the location, area and boundaries thereof. Petitioners' failure to present sufficient evidence on the identity of the properties

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sought to be recovered and their title thereto resulted in the dismissal of their complaint.

3. ID.; ID.; ID.; DISMISSAL OF THE COMPLAINT PROPER WHERE THE CLAIMANTS FAILED TO PROVE THE IDENTITY OF THE PROPERTIES SOUGHT TO BE RECOVERED AND THEIR TITLE THERETO.— [P]etitioners failed to prove the identity of the properties over which they claimed ownership and sought to be reconveyed to them, and they also failed to prove their title over Lot Nos. 1625 and 1626; hence, the Court of Appeals did not err in affirming the decision of the trial court, which dismissed petitioners' Complaint.

APPEARANCES OF COUNSEL

People's Law Office for petitioners.
Lourdes I. De Dios for respondent.

D E C I S I O N

PERALTA, *J.*:

This is a petition for review on *certiorari* of the Decision of the Court of Appeals dated October 2, 2001, and its Resolution dated February 11, 2002 in CA-G.R. CV No. 60520.

The Court of Appeals affirmed the decision of the Regional Trial Court (RTC) of Iba, Zambales, Branch 71, in Civil Case No. RTC-233-1, dismissing petitioners' complaint for reconveyance of property and cancellation of titles for insufficiency of evidence as to the identity of the properties sought to be recovered.

The factual background of this case, as stated by the Court of Appeals, is as follows:

The subject of this case are two parcels of agricultural land, Lot Nos. 1625 and 1626 with an area of 72,326 square meters and 116,598 square meters, respectively. Both lots are situated in Locloc, Palauig, Zambales. The cadastral survey of these lots were conducted sometime in December 1962 (Cad. 364-

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D, Palauiag Cadastre, Zambales).[1] The records of the Lands Management Bureau, RLO III, San Fernando, Pampanga show that the claimants of Lot No. 1625 was *Lodelfo Marcial*[2] *versus Miguel del Fierro*, while the claimants of Lot No. 1626 were *Lodelfo Marcial versus Francisco Santos and Narciso Marcial*.[3]

On April 29, 1965, Francisco Santos filed an application for free patent over Lot No. 1626 with the Bureau of Lands, District Land Office No. 40 at Olongapo, Zambales. The application remained pending until the commencement of this litigation in 1985.[4] Francisco Santos died on December 9, 1978.

Meanwhile, on August 21, 1964, the heirs of Miguel del Fierro, led by his widow Generosa Jimenez *Vda*. del Fierro, filed an ejectment case (forcible entry) against Lodelfo Marcial and Narciso Marcial before the Municipal Trial Court of Palauig, Zambales.[5] On October 31, 1972, the municipal court rendered a decision in favor of the Del Fierros.[6] On appeal, the Court of First Instance (CFI) of Zambales, Branch II-Iba, in a Decision[7] dated August 1, 1973, sustained the right of the Del Fierros to the possession of the subject premises and ordered the Marcials to vacate the premises.

On June 29, 1964, Lodelfo Marcial mortgaged to the Rural Bank of San Marcelino, Inc. a parcel of land covered by Tax Declaration No. 21492 with an area of 140,000 square meters.[8] The property is more particularly described as:

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[1] Exhibit "O", (Intervenors), records, Vol. I, pp. 290-293.

[2] Also referred to as Leodolfo.

[3] Records, Vol. I, p. 290-A.

[4] Exhibits "J" to "M", (Intervenors), records, Vol. I, pp. 283-286.

[5] Docketed as Civil Case No. 365 (Forcible entry with preliminary mandatory injunction).

[6] Exhibit "R", (Plaintiffs), records, Vol. II, p. 434.

[7] Exhibit "F", records, Vol. I, p. 57.

[8] Exhibits "5" and "6", (Defendant), records, Vol. II, pp. 620-622.

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A parcel of land suitable for cultivation, upland rice, riceland and nipa land, situated in Marala, Palauig, Zambales, containing an area of 140,000, sq. m., the improvements consists of mango trees in the possession of the mortgagor; bounded on the North by River; on the South by China Sea; on the East by heirs of Miguel del Fierro and on the West by River; this property has been declared under Tax Declaration No. 21492 and assessed at ₱1,550.00 in the name of the mortgagor; the visible limits at simple sight on the North and East are Rivers; on the South by China Sea and fence on the East.[9]

On December 26, 1972, the bank extrajudicially foreclosed the real estate mortgage and was the highest bidder in the sale of the property per the Certificate of Sale issued by the Provincial Sheriff.[10] On April 22, 1982, the Rural Bank of San Marcelino, Inc. consolidated its ownership over the property.[11]

On October 28, 1981, Lodelfo Marcial executed in favor of respondent Rene Seguiran a Deed of Absolute Sale over a parcel of swampland designated as Lot Nos. 1625 and 1626, Palauig Cadastre with Free Patent Application No. L-4-201 applied for by Marcial in 1967 and covered by Tax Declaration No. 3250 for the year 1974.[12] Marcial had Lot Nos. 1625 and 1626 surveyed by a private surveyor on October 19, 1969.[13] On November 9, 1981, respondent Rene Seguiran purchased Marcial's foreclosed property from the Rural Bank of San Marcelino Inc.[14] Respondent then filed an application for free patent over Lot Nos. 1625 and 1626, which was approved by the Bureau of Lands. On July 11, 1983, Free Patent Nos. 598462 (Lot No. 1625) and 598461 (Lot No. 1626) were issued in respondent's name. On July 29, 1983, the Register of Deeds of Zambales issued in the name of respondent Original Certificate of Title (OCT) Nos. P-7013 and P-7014 covering Lot Nos. 1625 and 1626,

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[9] Exhibit "10", records, Vol. II, p. 626.

[10] Exhibit "9" (Defendant), records, Vol. II, pp. 624-627.

[11] Exhibit "8" (Defendant), records, Vol. II, p. 632.

[12] Exhibits "7" and "11", records, Vol. II, pp. 623, 628-629.

[13] Exhibit "21-A" (Defendant), records, Vol. II, p. 633.

[14] Exhibit "7", (Defendant), records, Vol. II, p. 630.

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respectively.[15] On September 21, 1983, respondent had Lot Nos. 1625 and 1626 surveyed by a private surveyor.[16] He also paid the real property taxes and declared the property in his name beginning the year 1985.[17] On August 26, 1983, petitioner petitioned the RTC of Iba, Zambales to conduct a relocation survey of Lot Nos. 1625 and 1626, which petition was approved by the court. However, on February 16, 1985, the heirs of Miguel and Generosa del Fierro filed a Motion to Quash Order of Execution,[18] claiming they are in actual physical possession of Lot Nos. 1625 and 1626, and that prior to the sale of the said lots to respondent, the vendor, Lodelfo Marcial no longer had any right over the property, since he lost in Civil Case No. 706-1 for ejectment filed by the Del Fierros. In an Order[19] dated March 20, 1985, the RTC of lba, Zambales, Branch LXX held in abeyance the implementation of its earlier orders regarding the relocation survey of the lots subject of the petition filed by petitioners.

On September 13, 1985, the heirs of Miguel and Generosa del Fierro, namely, Cornelio, Gregorio, Ildefonso, Asuncion, Cipriano, Manuela and Francisco, all surnamed Del Fierro, petitioners herein, filed a Complaint for reconveyance and cancellation of titles against defendant Rene Seguiran, respondent herein, before the RTC of Iba, Zambales, Branch 71 (trial court).

The Complaint[20] alleged that plaintiffs (petitioners) were the owners and possessors of a parcel of land identified as Lot Nos. 1625 and 1626, formerly part of Lot No. 1197, situated at Barangay Locloc, Palauig, Zambales. On July 26, 1964, Lodelfo and Narciso Marcial unlawfully entered the land occupied by

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[15] Exhibits "3", "4", "20" to "24" (Defendant), records, Vol. II, pp. 616-619, 636-641.

[16] Exhibit "25" (Defendant), records, Vol. II, p. 642.

[17] Exhibits "15", and "16", (Defendant), records, Vol. II, pp. 634-635.

[18] Exhibit "V" (Plaintiffs), records, Vol. II, p. 455.

[19] Exhibit "W", (Plaintiffs), records, Vol. II, p. 458.

[20] Records, Vol. I, p. 2.

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plaintiffs. Plaintiffs sued them for forcible entry[21] before the Municipal Court of Palauig. The municipal court ruled in favor of plaintiffs, which decision was affirmed on appeal by the CFI of Iba, Zambales, Branch II on August 1, 1973. Consequently, Lodelfo and Narciso Marcial were ejected from the premises. Meanwhile, on June 29, 1964, Marcial had mortgaged the lots to the Rural Bank of San Marcelino, Inc., which foreclosed the real estate mortgage on December 26, 1972, and consolidated ownership over the lots on April 22, 1982. On October 28, 1981, defendant Rene S. Seguiran purchased from Lodelfo Marcial (deceased) the subject lots. On November 9, 1981, defendant purchased the subject lots again from the Rural Bank of San Marcelino, Inc.

Moreover, plaintiffs alleged that Lodelfo Marcial, predecessor-in-interest of defendant, had no legal right to convey the said lots to plaintiffs, since he was merely a deforciant in the said lots. Further, defendant, with evident bad faith, fraudulently applied with the Bureau of Lands for a free patent over the said lots, alleging that he was the actual possessor thereof, which constitutes a false statement, since the plaintiffs were the ones in actual possession. Despite knowing that the said lots were the subject of legal controversy before the CFI of Iba, Zambales, Branch II, defendant fraudulently secured a certification from the Court of Olongapo to prove that the said parcels of land were not subject of any court action. As a consequence of the foregoing illegal and fraudulent acts, defendant was able to secure OCT Nos. P-7013 and P-7014 for Lot Nos. 1625 and 1626, respectively.

Plaintiffs prayed that after trial, judgment be rendered: (1) ordering defendant to reconvey the parcels of land covered by OCT Nos. P-7013 and P-7014 to them (plaintiffs); (2) ordering the Register of Deeds of lba, Zambales to cancel the said titles and issue a new one in favor of plaintiffs; and (3) ordering defendant to pay plaintiffs ₱40,000.00 as actual and consequential

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[21] Civil Case No. 365, entitled *Generosa Jimenez Vda. de Del Fierro, et al. v. Leodolfo Marcial, et al.*

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damages; ₱50,000.00 as moral damages; and ₱10,000.00 as exemplary damages.[22]

Defendant was declared in default for failure to file an Answer, and plaintiffs were allowed to present evidence *ex parte*.[23] On October 13, 1986, after the completion of the testimonial evidence of the plaintiffs, the case was submitted for decision.[24]

Meanwhile, on December 9, 1986, the heirs of Francisco Santos, who intervened in the case, filed a protest[25] with the Bureau of Lands, questioning the award of free patent in favor of respondent Rene Seguiran over Lot No. 1626 when they were the actual owners and possessors of the said lot, since their father was the registered claimant and applicant of the said lot, while respondent had never set foot on the lot. The Director of Lands directed Land Investigator Alfredo S. Mendoza of the Bureau of Lands District Office in Iba, Zambales to investigate the matter.[26]

On February 26, 1981, the heirs of Francisco Santos, represented by their attorney-in-fact Olivia C. Olaivar, filed a Motion for Leave to File a Complaint-in-Intervention, which was granted by the trial court.[27] Intervenors claimed ownership and possession of Lot No. 1626, being the heirs of the late Francisco Santos who was the registered claimant of the said lot under the Cadastral Survey Notification Card in 1962. The intervenors prayed that after hearing, the trial court render judgment (1) annulling the Free Patent Application No. (III-4) (1) 467-A (Patent No. 598461) issued to defendant Rene Seguiran; (2) declaring the intervenors the true and lawful owners of Lot No. 1626, since they are the legal heirs of the late Francisco

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[22] Records, Vol. I, p. 5.

[23] *Id.* at 42.

[24] *Id.* at 43.

[25] Exhibit "D", *id.* at 122.

[26] Exhibit "E", (Intervenors), *id.* at 124.

[27] Records, Vol. I, pp. 104-105, 118-119.

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Santos; and (3) requiring defendant to pay to the intervenors ₱5,000.00 as attorney's fees.[28]

In their Answer to [the] Complaint-in-Intervention,[29] plaintiffs denied that the intervenors were the owners and possessors of Lot No. 1626; hence, the intervenors had no cause of action against them. Plaintiffs prayed that the complaint-in-intervention be dismissed.

On May 20, 1988, defendant filed his Answer,[30] claiming that when he bought the land in dispute on October 28, 1981, Lodelfo Marcial was no longer its owner, but the Rural Bank of San Marcelino, Inc., since Marcial failed to redeem the land within the one-year period of redemption. His only purpose for buying the land from the mortgagor, Lodelfo Marcial in November 1981 was for the peaceful turn-over of the property to him by Marcial. Defendant denied any fraud, illegality or bad faith in securing OCT Nos. P-7013 and P-7014. He asserted that when he secured a certification from the RTC on June 6, 1983, there was in truth no pending case involving the subject properties in any court in Zambales; hence, no bad faith could be attributed to him. Defendant prayed that judgment be rendered by the trial court dismissing the complaint and ordering plaintiffs to pay him actual, moral and exemplary damages as well as attorney's fees and the expenses of litigation.

On August 2, 1988, defendant also filed his Answer to the Complaint-in-Intervention[31] with the same defenses and counterclaim. On motion of defendant, the earlier order declaring him in default was set aside, and the trial court granted defendant's counsel the right to cross-examine the witnesses who had testified during the proceedings already conducted.[32]

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[28] *Id.* at 106-108.

[29] *Id.* at 141.

[30] *Id.* at 185.

[31] *Id.* at 201.

[32] *Id.* at 206.

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At the pre-trial conference held on October 20, 1988, only the plaintiffs and intervenors admitted that Lot No. 1625 was actually being occupied by the plaintiffs (Del Fierros), while Lot No. 1626 was being occupied by the intervenors (the heirs of Francisco Santos). Defendant did not admit the said facts.[33]

On October 13, 1995, intervenors filed a Motion to Hold the Proceedings in Abeyance,[34] since their pending administrative protest, which involved the same lots, had been scheduled for pre-trial conference on October 3, 1995 by the Bureau of Lands.

In an Order[35] dated January 8, 1996, the trial court directed that the proceedings be held in abeyance until after the resolution of the administrative case. However, after plaintiffs sought reconsideration of the Order, the trial court continued the proceedings in the interest of justice because the administrative case for cancellation of title had yet to commence the reception of evidence, while in this case, the intervenors (the complainants in the administrative case) had already presented witnesses and marked evidences on their behalf; and the suspension of this case would prove to be more expensive for all party litigants.[36] The intervenors' motion for whole or partial reconsideration of the said order of reversal was denied by the trial court for lack of merit.[37]

On April 23, 1998, the trial court rendered judgment in favor of defendant, respondent herein, the dispositive portion of which reads:

WHEREFORE, premises considered, the complaint dated September 12, 1985 is dismissed for insufficiency of evidence as to the identity of the properties sought to be recovered. The

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[33] *Id.* at 278.

[34] Records, Vol. II, p. 765.

[35] *Id.* at 783.

[36] *Id.* at 795-797.

[37] *Id.* at 815-816.

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complaint-in-intervention dated February 24, 1987 is dismissed for prematurity and insufficiency of evidence.[38]

The trial court held that plaintiffs (petitioners) failed to prove the identity of the property sought to be recovered. The numerous documents they presented to prove ownership of Lot Nos. 1625 and 1626 showed that the properties covered by sale or *pacto de retro* are located at Liozon,[39] Palauig, Zambales, while Lot Nos. 1625 and 1626 are located at Locloc, Palauig, Zambales; and there is no clear showing that parts of Liozon became Locloc. Moreover, although the Del Fierros were declared as the possessors of the property in the ejectment case (forcible entry)[40] filed by Generosa del Fierro against Lodelfo and Narciso Marcial, the property concerned in the said case is Lot No. 1197. There was no evidence as to the original size of Lot No. 1197 and no proof that Lot Nos. 1625 and 1626 formed part of Lot No. 1197. Based on the foregoing, the trial court dismissed plaintiffs' complaint.

The trial court also dismissed the complaint of intervenors on the ground of non-exhaustion of administrative remedies as the protest filed earlier by them against defendant (respondent) with the Bureau of Lands was still pending.

Both plaintiffs (petitioners) and intervenors appealed the decision of the trial court to the Court of Appeals.

On October 2, 2001, the Court of Appeals upheld the decision of the trial court. The dispositive portion of the appellate court's decision reads:

WHEREFORE, premises considered, the present appeals are hereby DISMISSED and the appealed Decision in Civil case No. RTC-233-1 is hereby AFFIRMED and UPHELD.[41]

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[38] *Rollo*, pp. 87-88.

[39] Also spelled as "Lioson."

[40] Exhibit "R", records, Vol. II, p. 434; exhibit "F", records, Vol. I, p. 57.

[41] *Rollo,* p. 43.

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The Court of Appeals held that petitioners are not entitled to reconveyance of Lot Nos. 1625 and 1626, since they failed to prove the identity of the parcels of land over which they claim ownership. The evidence they adduced to prove their ownership of the said lots showed that the Spanish deeds of conveyance involved properties that were located in Barrio Liozon and not in Locloc, Palauig, Zambales, which is the actual location of Lot Nos. 1625 and 1626.

Moreover, the Court of Appeals stated that the fact that Lodelfo Marcial was defeated in the forcible entry case filed by petitioners prior to the purchase by respondent of the foreclosed property from Marcial and from the mortgagee bank in 1973 could not serve as the basis for petitioners' right of ownership or title over Lot Nos. 1625 and 1626 as only Lot No. 1197 was involved in the ejectment case and only the issues of possession thereof was adjudicated therein. The appellate court stated that the said court decision could have buttressed petitioners' claim of ownership over Lot Nos. 1625 and 1626 if petitioners were able to establish in this case that the said lots indeed formed part of Lot No. 1197.

In addition, the Court of Appeals held that petitioners failed to prove by clear and convincing evidence that the issuance of the certificates of title in favor of respondent was attended by fraud.

The Court of Appeals declared as unmeritorious the argument of intervenors that this case is not covered by the rule on exhaustion of administrative remedies. It cited ***Garcia v. Aportadera***,[42] wherein it was held that where a party seeks for the cancellation of a free patent with the Bureau of Lands, he must pursue his action in the proper Department and a review by the court will not be permitted unless the administrative remedies are first exhausted. Further, an *applicant* for a free patent may not file an action for reconveyance for that is the remedy of an *owner* whose land has been erroneously registered in the name of another.[43]

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[42] No. L-34122, August 29, 1988, 164 SCRA 705.

[43] *Id.*

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Petitioners' motion for reconsideration was denied for lack of merit by the Court of Appeals in a Resolution[44] dated February 11, 2002.

Petitioners filed this petition, raising the following issues:

I

THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT ON THE BASIS OF ISSUES NOT RAISED BY RESPONDENT IN THE TRIAL COURT.

II

THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT *VIS-À-VIS* THE JUDICIAL ADMISSION OF RESPONDENT ON THE RIGHT OF THE PETITIONERS TO THE PROPERTY.

III

THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT DESPITE THE FACT THAT THE CONCLUSIONS OF LAW RUN COUNTER AND ARE DIAMETRICALLY OPPOSED TO (THE) SUMMARY OF THE EVIDENCE GIVEN BY THE REGIONAL TRIAL COURT.

The main issues are whether petitioners are entitled to reconveyance of Lot Nos. 1625 and 1626, and whether the certificates of title of respondent to the said lots should be cancelled.

The requisites of reconveyance are provided for in Article 434 of the Civil Code, thus:

> Art. 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.

Article 434 of the Civil Code provides that to successfully maintain an action to recover the ownership of a real property, the person who claims a better right to it must prove two (2)

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[44] *Rollo*, p. 52.

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things: *first*, the identity of the land claimed; and *second*, his title thereto.[45]

In regard to the first requisite, in an *accion reinvindicatoria,* the person who claims that he has a better right to the property must first *fix the identity of the land he is claiming by describing the location, area and boundaries thereof*.[46] Anent the second requisite, *i.e.,* the claimant's title over the disputed area, the rule is *that a party can claim a right of ownership only over the parcel of land that was the object of the deed*.[47]

In this case, petitioners failed to prove the identity of the parcels of land sought to be recovered and their title thereto. Petitioners contend that they are the owners of Lot Nos. 1625 and 1626 by virtue of the decision of the Municipal Court of Palauig, Zambales in the ejectment case (forcible entry)[48] against Lodelfo and Narciso Marcial, declaring them (petitioners) as the ones in possession of the property, which decision was affirmed on appeal. However, as stated by the trial court and the Court of Appeals, the property involved in the ejectment case was Lot No. 1197, and it was never mentioned in the respective decisions[49] of the Municipal Court of Palauig, Zambales and the CFI of Zambales, Branch II-Iba that the portion intruded upon was Lot Nos. 1625 and 1626. Moreover, petitioners failed to adduce in evidence the technical description of Lot No. 1197 and failed to prove that Lot Nos. 1625 and 1626 were part of or used to be part of Lot No. 1197.

Further, the documents presented by petitioners to prove their title over Lot Nos. 1625 and 1626 showed that the properties covered therein were located in *Barrio Liozon*, Palauig, Zambales, while Lot Nos. 1625 and 1626 are located in *Barrio Locloc*, Palauig, Zambales. In addition, petitioners failed to establish

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[45] *Hutchinson v. Buscas*, 498 Phil. 257, 262 (2005).

[46] *Id.* at 220.

[47] *Id.*

[48] Civil Case No. 365, records, Vol. II, p. 434.

[49] Records, Vol. II, p. 434; Exhibit "F", records, Vol. I, p. 57.

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which of the deeds of sale, donation or documents evidencing transfer of properties to their father, Miguel del Fierro, which were adduced in evidence, covered Lot Nos. 1625 and 1626. The Court of Appeals stated:

In support of their claim of ownership over Lot Nos. 1625 and 1626, plaintiffs-appellants (petitioners) submitted in evidence various Spanish documents or deeds of purchase: (1) a Spanish document dated June 1927, "*Venta Real de Terreno*" executed by J.L. Faranal in favor of Miguel del Fierro, over a parcel of land situated in Marala, Barrio Liozon, Palauig, Zambales; (2) a Spanish document dated December 18, 1939 executed by Justo Apostol in favor of Miguel del Fierro, for the sale of a riceland situated in Barrio Liozon, Palauig, Zambales (1,350 sq.m.); (3) "*Escritura de Compra Venta*" dated June 1, 1918 executed by Alejandro Abaga in favor of Feliciana Frase over a parcel of land situated in Marala, Barrio Lioson, Palauig, Zambales; (4) "*Renuncia De Derecho*" (Waiver of Rights) dated September 6, 1928 executed by Juan Saclolo in favor of Miguel del Fierro over a riceland situated in Marala, Barrio Lioson, Palauig, Zambales; (5) "*Venta Con Pacto de Retro de Terrenos* dated April 8, 1927 executed by Faustino Barrentos in favor of Don Miguel del Fierro over a coconut plantation located at Sitio Sasa, Barrio Liozon, Palauig, Zambales; (6) "*Venta Real de Terrenos*" dated July 24, 1926 executed by Jose Trinidad and Ursula Villanueva in favor of Miguel de1 Fierro over a riceland situated in Barrio Liozon, Palauig, Zambales (25,610 sq. ms.); (7) "*Escritura de Cancelacion de Hipoteca de Bienes Inmuebles*" (Contract of Cancellation of Mortgage of Real Estate Property) executed by Pedro Redona in favor of Ursula Villanueva over a riceland situated in Barrio Lioson, Palauig, Zambales; (8) "*Declaracion Jurada*" (Sworn Statement) dated January 11, 1928 executed by Demetrio Sison, Aurea Sison and Severino Anguac affirming the contract of sale dated September 25, 1925 signed by their deceased mother in favor of Miguel del Fierro over a riceland situated in Barrio Lioson, Palauig, Zambales (15,660 sq. ms.); (9) "*Escritura de Compra Venta*" dated September 25, 1925 executed by Justa Romero and Aurea Sison in favor of Don Miguel del Fierro over a piece of land situated in [Sitio] Sasa, Barrio Lioson, Palauig, Zambales (1 hectare, 56 ares and 60 centares); (10) "*Escritura de Compra Venta*" dated August 29, 1921 executed by Juan Sison in favor of Miguel del Fierro over a parcel of coconut land (83 ares and 70 centares) situated in Barrio Lioson, Palauig, Zambales; (11) "*Venta Real de Terrenos*" dated

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September 16, 1925 executed by Agustin Abaga in favor of Miguel del Fierro over a parcel of land situated in [Sitio] Sasa, Barrio Lioson, Palauig, Zambales (7,200 sq. ms.); and (12) "*Escritura de Donacion*" (Deed of Gift or Pure Donation) executed by Eugenio del Fierro in favor of his son, Miguel del Fierro of a land situated in Marala, Barrio Lioson, Paiauig, Zambales (12 hectares, 77 ares and 90 centares). In addition to the foregoing documents, plaintiffs-appellants presented various tax declarations for the years 1944 (Miguel del Fierro), 1952, 1968, 1974, 1977, 1980, 1985 and 1987 (Heirs of Miguel del Fierro). These tax declarations pertain to lots situated in Locloc, Palauig, Zambales but the designation of Lots 1625 and 1626 (as part of Lot 1197) was made only in TD Nos. 11-0099 and 11-0100 for 1984 and 1987, respectively.

A perusal of these documents would readily show that the lots indicated in the Spanish deeds of conveyence (sic) were located in Barrio Lioson and not in Locloc, Palauig, Zambales, the actual location of the Lot Nos. 1625 and 1626. As to the tax declarations, the real properties declared therein, although situated in Locloc, Palauig, Zambales were not designated as Lot Nos. 1625 and 1626 until the year 1985, the same year the said lots were titled in the name of defendant-appellee. And even without such designation of Lot Nos. 1625 and 1626, plaintiffs-appellants failed to show that the separate lots which their predecessor-in-interest, Don Miguel del Fierro, had acquired in the 1920's, were the very same land (or included therein) which have been designated as Lot Nos. 1625 and 1626, or which was covered by the land supposedly donated by their grandfather to Don Miguel del Fierro. In other words, the identity of the land being claimed by plaintiffs-appellants could not be clearly established on the basis of either the Spanish deeds of purchase and donation or the old tax declarations presented by plaintiffs-appellants.[50]

Based on the foregoing, petitioners failed to prove the identity of the properties sought to be recovered and their title thereto.

Petitioners argue that the issue of identity of the subject parcels of lands was not among those raised during pre-trial or even during the trial. They contend that the findings of the trial court, which were affirmed by the Court of Appeals, on the issue of supposed insufficiency of evidence as to the identity of the

[50] *Rollo*, pp. 40-41.

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properties not only surprised them, but caused them manifest injustice. They assert that issues not raised in the trial court cannot be raised for the first time on appeal.

Petitioners' argument is unmeritorious.

Petitioners filed an action for reconveyance and cancellation of titles. Hence, it was incumbent on petitioners to prove the requisites of reconveyance, one of which is to establish the identity of the parcels of land petitioners are claiming. To reiterate, in an *accion reinvindicatoria,* the person who claims that he has a better right to the property must first fix the identity of the land he is claiming by describing the location, area and boundaries thereof.[51] Petitioners' failure to present sufficient evidence on the identity of the properties sought to be recovered and their title thereto resulted in the dismissal of their complaint.

As regards the second issue raised, petitioners contend that the Partial Pre-Trial Order stated that during the pre-trial conference the following facts were stipulated on:

> 1) By the plaintiffs and intervenor — that Lot 1625 is actually occupied by the Del Fierros, while Lot 1626, Cad. Lot 364-D of the Palauig is occupied by the heirs of Francisco Santos, who is already deceased. The defendant did not admit this fact.
>
> 2) The plaintiffs and defendants — that there exists a decision rendered by the then Court of First Instance of Zambales thru Honorable Judge Pedro Cenzon in favor of the plaintiffs in this case, affirming the decision of the Municipal Trial Court of Palauig, Zambales where it was stated that the plaintiffs are the ones in possession of Lots 1625 and 1626, which is docketed as Civil Case No. 706-I entitled "*Generosa Jimenez Vda. de Del Fierro, et al. versus Leodolfo Marcial, et al*." The intervenor did not admit this fact.[52]

Petitioners contend that the said judicial admission is binding and conclusive on the respondent and it cannot just be ignored

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[51] *Hutchinson v. Buscas, supra* note 45, at 220.

[52] Records, Vol. I, p. 278.

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by the trial court without doing violence to Section 4, Rule 129 of the Rules of Evidence.[53] Petitioners also contend that the decision of the appellate court in the ejectment case (Civil Case No. 706-I), filed by petitioners against Lodelfo Marcial, respondent's predecessor-in-interest, is conclusive as to petitioners' possession of Lot Nos. 1625 and 1626. Since petitioners are in possession, respondent fraudulently applied for and procured free patents, as the consideration in qualifying as a patentee is that the applicant is in actual possession of the land applied for. Moreover, the undisputed possession of petitioners and their predecessors of the land as early as 1920s had long converted the parcels of land to private land and no longer part of the public domain.

Petitioners' contention does not persuade.

As stated by the trial court and the Court of Appeals, the ejectment case entitled *Generosa Jimenez Vda. de Del Fierro, et al. v. Leodolfo Marcial, et al.* involved Lot No. 1197, and there was no mention of Lot Nos. 1625 and 1626 therein. The land involved in the ejectment case was described by the plaintiffs (petitioners) in their Complaint[54] as follows:

> Consisting of 21.3196 hectares, more or less, and bounded on the North by Leoncia Apostol, Heirs of P. Lesaca, Justa Ponce and P. Artiquera; East by Hrs. of Potenciano Lesaca, M. Abdon, P. Artiquera, David Abdon and D. Abdon; South by P. Garcia, Barrio Road and Maximo Abdon and West by River and Beach. **It is designated as Lot No. 1197 of the Palauig Cadastre** and declared for taxation purposes in the name of the Heirs of Miguel del Fierro under Tax Declaration No. 18324 and assessed at ₱5,330.00.[55]

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[53] Sec. 4. *Judicial admissions*.—An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

[54] Records, Vol. II, p. 422.

[55] RTC Decision, records, Vol. III, p. 970 (Emphasis supplied.); Complaint, *id.* at 422.

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Moreover, in this case, petitioners failed to prove that Lot Nos. 1625 and 1626 were part of Lot No. 1197. The Survey Map[56] of Lot 1626 showed that Lot Nos. 1197, 1625, and 1626 are distinct lots. The cadastral survey of Lot Nos. 1625 and 1626 was conducted sometime in 1962.[57] The ejectment case was filed in 1964, after the cadastral survey of Lot Nos. 1625 and 1626, yet petitioners did not mention in their complaint that the ejectment case involved Lot Nos. 1625 and 1626.

In view of the foregoing, the Partial Pre-trial Order[58] mistakenly stated that petitioners were declared as the ones in possession of Lot Nos. 1625 and 1626 in the ejectment case. Even the trial court stated during the pre-trial conference held on October 28, 1988 that there was no mention of Lot Nos. 1625 and 1626 in the decision[59] of the CFI of Zambales, Branch II-Iba in the ejectment case (Civil Case No. 706-I).[60] Moreover, contrary to the contention of petitioners, respondent did not admit that petitioners and the intervenors were in possession of Lot Nos. 1625 and 1626, respectively, which fact was clearly stated in the Partial Pre-trial Order.

As regards the third issue raised, petitioners cited their testimonial evidence as narrated by the trial court, and contend that the identity of the land and their possession thereof were established as shown by the decision of the trial court. They contend that they seek reconveyance because the free patent titles were issued to respondent on false representation as they (petitioners) were in possession of the land.

The contention lacks merit.

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[56] Exhibit "I", records, Vol. III, p. 887.

[57] *Supra* note 1.

[58] Records, Vol. I, p. 278.

[59] Exhibit "F", *id.* at. 57.

[60] TSN, October 28, 1988, *id.* at 322-323.

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The testimonial evidence of petitioners showed that they did not know the land area of Lot Nos. 1625 and 1626;[61] they had no tax declaration specifically for Lot Nos. 1625 and 1626;[62] they did not know who was residing in Lot No. 1626; they could not identify which of the documents evidencing transfer of properties to their father, Miguel del Fierro, covered Lot Nos. 1625 and 1626;[63] and they had no survey plan of the property over which they were claiming ownership. However, Ildefonso del Fierro testified that he has a fishpond and an approximately two-hectare riceland in Lot No. 1625;[64] hence, he did not allow the relocation survey by respondent of Lot Nos. 1625 and 1626, because it would pass through his fishpond and it would be disturbed.[65] Nevertheless, petitioners failed to identify the specific area of Lot No. 1625 or of Lot No. 1626 where the fishpond, riceland or houses of petitioners are located. Instead, they claim possession of the entire area of Lot Nos. 1625 and 1626, but not one of their documents showing transfer of properties in the name of their father, Miguel del Fierro, specifically states that it covers Lot No. 1625 or Lot No. 1626, and petitioner could not identify which documents referred to Lot Nos. 1625 and 1626. Thus, petitioners erred in claiming that their testimonial evidence established the identity of the parcels of land sought to be recovered and their title thereto.

The Court notes that the trial court did not discuss the merits of the testimonial evidence of petitioners, but the Court of Appeals did, stating thus:

x x x [T]he testimonies of plaintiffs' witnesses did not serve to clarify the matter of identity of the subject properties as they even failed to indicate the precise boundaries or areas of Lot Nos. 1625

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[61] TSN, October 13, 1986, p. 35 (Moises Leal); TSN, November 25, 1988, p. 27 (Gregorio del Fierro).

[62] TSN, October 13, 1986, p. 35.

[63] TSN, February 27, 1989, p. 35.

[64] TSN, March 16, 1990, p. 19.

[65] *Id.* at 24-25.

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and 1626, and likewise admitted they have no tax declaration specifically for Lot Nos. 1625 and 1526 even after the cadastral survey in 1962. Failing in their duty to clearly identify the lands sought to be recovered by them, plaintiffs-appellants' action for reconveyance must necessarily fail. To reiterate, in order that an action to recover ownership of real property may prosper, the person who claims he has a better right to it must prove not only his ownership of the same but also satisfactorily prove the identity thereof. x x x[66]

In fine, petitioners failed to prove the identity of the properties over which they claimed ownership and sought to be reconveyed to them, and they also failed to prove their title over Lot Nos. 1625 and 1626; hence, the Court of Appeals did not err in affirming the decision of the trial court, which dismissed petitioners' Complaint.

WHEREFORE, the petition is *DENIED*. The Court of Appeals' Decision dated October 2, 2001 and its Resolution dated February 11, 2002 in CA-G.R. CV No. 60520 are hereby *AFFIRMED*.

No costs.

SO ORDERED.

Carpio,[*] *Velasco, Jr. (Chairperson), Brion,*[**] and *Sereno,*[***] *JJ.,* concur.

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[66] *Rollo*, p. 42.

[*] Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1059 dated August 1, 2011.

[**] Designated as an additional member in lieu of Associate Justice Jose Catral Mendoza, per Special Order No. 1056, dated July 27, 2011.

[***] Designated as an additional member, per Special Order No. 1028 dated June 21, 2011.