Supreme Court E-Library

procedure comes in conflict with the interests of rendering substantial justice and protecting the general welfare, the scales of justice tilt substantially in favor of the latter. The rules of procedure should not be applied in a very rigid technical sense so as to override substantial justice.[34]

Ultimately, this Court finds that the interests of dispensing justice and of protecting both the general public and the integrity of our Torrens system will best be served by requiring the CA to proceed with the case to determine the truth of Tan's factual allegations.

WHEREFORE, we hereby **GRANT** the petition. The January 16, 2008 and the July 16, 2008 resolutions of the Court of Appeals in **CA-G.R. SP No. 101727** are **ANNULLED** and **SET ASIDE**. The Court of Appeals is further **DIRECTED** to **PROCEED** hearing the case.

SO ORDERED.

Carpio (Chairperson), del Castillo, Mendoza, and *Leonen, JJ.*, concur.

THIRD DIVISION

[G.R. No. 187633. April 4, 2016]

HEIRS OF DELFIN and MARIA TAPPA, *petitioners, vs.* **HEIRS OF JOSE BACUD, HENRY CALABAZARON and VICENTE MALUPENG,** *respondents.*

SYLLABUS

1. CIVIL LAW; PROPERTY; QUIETING OF TITLE; REQUISITES. — [A]n action for quieting of title is essentially a common law

[34] *Reyes, Jr. v. Court of Appeals, supra* note 24, at 629.

Supreme Court E-Library

remedy grounded on equity, x x x governed by Article 476 and 477 of the Civil Code, x x x. [F]or an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.

2. **ID.; ID.; ID.; FREE PATENT ISSUED OVER A PRIVATE LAND IS NULL AND VOID.—** Spouses Tappa's claim of legal title over Lot No. 3341 by virtue of the free patent and the certificate of title, OCT No. P-69103 issued in their name cannot stand. x x x [A]t the time of the application for free patent, Lot No. 3341 had already become private land by virtue of the open, continuous, exclusive, and notorious possession by respondents. Hence, Lot No. 3341 had been removed from the coverage of the Public Land Act, which governs public patent applications. The settled rule is that a free patent issued over a private land is null and void, and produces no legal effects whatsoever. x x x Public Land Law applies only to lands of the public domain. The Director of Lands has no authority to grant free patent to lands that have ceased to be public in character and have passed to private ownership.

3. **ID.; ID.; ID; REALTY TAX PAYMENT IS GOOD *INDICIA* OF POSSESSION IN THE CONCEPT OF OWNER.—** Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, they are good *indicia* of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. They constitute at least proof that the holder has a claim of title over the property.

4. **ID.; ID.; IN ACTION TO QUIET TITLE, LEGAL TITLE DENOTES REGISTERED OWNERSHIP WHILE EQUITABLE TITLE MEANS BENEFICIAL OWNERSHIP WHEN CLOUD ON TITLE EXISTS.—** In an action to quiet title, legal title denotes registered ownership, while equitable title means beneficial ownership. x x x A cloud on a title exists when (1) there is an instrument (deed, or contract) or record or claim or encumbrance or proceeding; (2) which is apparently valid or effective; (3) but is, in truth and in fact,

Supreme Court E-Library

invalid, ineffective, voidable, or unenforceable, or extinguished (or terminated) or barred by extinctive prescription; and (4) and may be prejudicial to the title.

5. ID.; ID.; PROPERTY REGISTRATION DECREE; A CERTIFICATE OF TITLE SHALL NOT BE SUBJECT TO COLLATERAL ATTACK; WHAT CANNOT BE COLLATERALLY ATTACKED IS THE CERTIFICATE OF TITLE AND NOT THE OWNERSHIP.— Section 48 of PD 1529 (Property Registration Decree), provides that "[a] certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law." This rule is not applicable in this case. We reiterate our ruling in *Lee Tek Sheng v. Court of Appeals*, where we stated that, "[w]hat cannot be collaterally attacked is the certificate of title and not the title. The certificate referred to is that document issued by the Register of Deeds x x x. By title, the law refers to ownership which is represented by that document." Ownership is different from a certificate of title, the latter being only the best proof of ownership of a piece of land. Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioners.
Salud Calabarzon Del Fierro Law Firm for respondents.

D E C I S I O N

JARDELEZA, *J.*:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Revised Rules of Court assailing the Decision[2] dated February 19, 2009 and Resolution[3] dated April 30, 2009 of the

[1] *Rollo*, pp. 10-28.

[2] Penned by Associate Justice Juan Q. Enriquez, Jr. with Associate Justices Celia C. Librea-Leagogo, and Normandie B. Pizarro concurring. *Id*. at 81-90.

[3] *Id.* at 100-101.

Supreme Court E-Library

Court of Appeals (CA) in CA-G.R. CV No. 90026, which reversed and set aside the Decision[4] dated July 6, 2007 of Branch 5, Regional Trial Court (RTC) of Tuguegarao City, Cagayan in Civil Case No. 5560 for Quieting of Title, Recovery of Possession and Damages.

The Facts

On September 9, 1999, petitioners Delfin Tappa (Delfin)[5] and Maria Tappa (Spouses Tappa) filed a complaint[6] for Quieting of Title, Recovery of Possession and Damages (Complaint) against respondents Jose Bacud (Bacud),[7] Henry Calabazaron (Calabazaron), and Vicente Malupeng (Malupeng).[8] The property subject of the complaint is a parcel of land identified as Lot No. 3341, Pls-793 with an area of 21,879 square meters, located in Kongcong, Cabbo, Peñablanca, Cagayan (Lot No. 3341).[9]

In their complaint, Spouses Tappa alleged that they are the registered owners of Lot No. 3341, having been issued an Original Certificate of Title No. P-69103 (OCT No. P-69103) on September 18, 1992, by virtue of Free Patent No. 021519-92-3194.[10] Delfin allegedly inherited Lot No. 3341 from his father, Lorenzo Tappa (Lorenzo). Spouses Tappa claimed that both Delfin and Lorenzo were in open, continuous, notorious, exclusive possession of the lot since time immemorial.[11]

---

[4] *Id.* at 30-34.

[5] Upon the death of Delfin, he was substituted by his heirs: Vidal Tappa, Imee T. Henricksen, Ruth T. Taguinod, and Nila T. Maggay. Records, p. 151.

[6] *Id.* at 1-5.

[7] Respondent Bacud was substituted by his heirs: Esting Bacud Salva, Sally Bacud Perciano, Myrna Bacud Bancud, Adoracion Melad Bacud, Leslie M. Bacud, Dante M. Bacud, Jose M. Bacud, Jr., and Margie Bacud. *Id.* at 187.

[8] Respondent Malupeng was likewise substituted by his heirs: Erlinda, Eric, Aileen, Elvis, Nuvel, Jaclyn, Vic, Janice, and Mikey, all surnamed Malupeng. *Id.* at 41.

[9] *Id.* at 1, 6.

[10] *Id.* at 6.

[11] *Id.* at 1-2.

Supreme Court E-Library

In their Answer,[12] respondents Bacud, Calabazaron and Malupeng claimed that the original owner of Lot No. 3341 was Genaro Tappa (Genaro) who had two children, Lorenzo and Irene. Upon Genaro's death, the property passed on to Lorenzo and Irene by operation of law; and they became *ipso facto* co-owners of the property. As co-owners, Lorenzo and Irene each owned 10,939 square meters of the lot as their respective shares. Lorenzo had children namely, Delfin, Primitiva, and Fermina. Upon the death of Irene, her share in turn passed to her heirs, Demetria, Juanita, Pantaleon and Jose Bacud.[13]

Respondents presented before the RTC a joint affidavit dated April 29, 1963 (1963 Affidavit) signed by Delfin, his sisters, Primitiva and Fermina, and their mother, Modesta Angoluan.[14] The 1963 affidavit stated that Genaro originally owned Lot No. 3341. It further stated that one-half (½) of the property was owned by Lorenzo; but that the whole property was declared as his, only for taxation purposes.

Calabazaron claimed that he became the owner of 2,520 square meters of Lot No. 3341 by virtue of two Deeds of Sale executed in his favor, one dated October 12, 1970 executed by Demetria, and another dated August 22, 1971 executed by Juanita.[15] After the sale, Calabazaron entered into possession of his portion and paid the real property taxes.[16] He remains in possession up to this date.[17]

Malupeng, on the other hand, claimed that he became the owner of 210 square meters of Lot No. 3341 by virtue of a Deed of Sale executed on November 30, 1970 by Pantaleon in his favor.[18]

---

[12] *Id.* at 9-12.

[13] *Rollo*, p. 36.

[14] Records, p. 213.

[15] *Id.* 10-11; *rollo,* p. 83.

[16] Respondents' Comment with Entry of Appearance, *rollo*, p. 110.

[17] *Id.*

[18] *Rollo,* pp. 83 and 110.

Supreme Court E-Library

After the sale, Malupeng entered into possession of his portion of property and paid the real property taxes.[19] He remains in possession up to this date.[20]

Bacud claimed ownership over 1,690 square meters of Lot No. 3341 in his own right as heir of Irene.[21]

Respondents started occupying their respective portions after the sale made to each of them. They continued to occupy them despite several demands to vacate from Spouses Tappa.[22]

Spouses Tappa claimed that the 1963 Affidavit was executed through force and intimidation.[23] Bacud and Malupeng denied this allegation.[24]

The Ruling of the RTC

The RTC issued its Decision,[25] the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and the Court hereby orders:

1. Plaintiffs to be the owners of Lot 3341, Pls 793 and unqualifiedly vests in them the full and untrammeled rights of ownership;
2. All the defendants must, if still in possession of portions of the lot in issue, convey the same to the plaintiffs;
3. No pronouncement as to costs.

SO ORDERED.[26]

---

[19] *Id.* at 110.

[20] *Id.*

[21] Records. p. 11.

[22] Petition for Review on *Certiorari*, *rollo*, p. 14.

[23] Records, p. 2; *rollo*, p. 37.

[24] Records, p. 9.

[25] *Rollo*, pp. 30-34.

[26] *Id.* at 33-34.

Supreme Court E-Library

The RTC ruled that the basic requirement of the law on quieting of title under Article 447 of the Civil Code was met, thus:

Delfin and Maria's title is clear and unequivocal, and its validity has never been assailed by the defendants – nor has any evidence been adduced that successfully overcomes the presumption of validity and legality that the title of Delfin and Maria enjoys.[27] (Emphasis in the original.)

The RTC ruled that there was no document in the hands of respondents as strong and persuasive as the title in the name of the Spouses Tappa that will support respondents' claim of ownership and Irene's antecedent ownership.[28] The RTC stated that the 1963 Affidavit contains nothing more than the allegations of the affiants and does not, by itself, constitute proof of ownership of land, especially as against documents such as titles.[29]

Respondents appealed to the CA, raising the following arguments:

First, respondents alleged that Spouses Tappa fraudulently applied for, and were issued a free patent over Lot No. 3341, and eventually OCT No. P- 69103 dated September 18, 1992.[30] They alleged that Spouses Tappa committed fraud because they were not in possession of the lot since 1963, which possession was required for an applicant for a free patent under the law.[31]

Second, respondents argued that the complaint should be dismissed because both extinctive and acquisitive prescription have already set in.[32] Respondents claimed that both ordinary acquisitive prescription of 10 years, and extraordinary acquisitive prescription of 30 years in claiming ownership of immovable property apply in the case.[33] They argued that more than 30

---

[27] *Id.* at 33.

[28] *Id.* at 32.

[29] *Id.* at 33.

[30] *Id.* at 37.

[31] *Id.*

[32] *Rollo*, pp. 39-43.

[33] *Id.* at 40-41.

years have already lapsed from the time they entered possession of the subject lot in 1963 up to the filing of the complaint on September 9, 1999.[34] They also pointed out that Spouses Tappa admitted in their complaint that respondents were in possession of the lot since 1963.[35]

Particularly, Calabazaron argued that the 10-year prescriptive period under Article 1134 of the Civil Code applies to him by virtue of the two duly executed Deeds of Sale in his favor.[36] It was never alleged that he had any participation in the alleged duress, force and intimidation in the execution of the 1963 Affidavit.[37] Hence, he is a purchaser in good faith and for value. Calabazaron entered possession of the lot after the sale to him in 1970, thus, the prescriptive period of 10 years had long lapsed.[38]

Bacud and Malupeng claimed that, even assuming that the execution of the 1963 Affidavit was attended with force and intimidation, the complaint against them should have been dismissed because the extraordinary acquisitive prescriptive period of 30 years under Article 1137 of the Civil Code applies to them.[39] They also argued that the action for quieting of title had already prescribed since the possession of Bacud and Malupeng started in 1963, which fact was allegedly admitted by Spouses Tappa in their complaint.[40] Thus, Spouses Tappa had only until 1993 to file a complaint, which they failed to do.

All respondents claimed that from the start of their possession, they (1) have paid real taxes on the lot, (2) have planted crops, and (3) have continued to possess the lot in the concept of owners.[41]

---

[34] *Id.* at 40-42.

[35] *Id.* at 39.

[36] *Id.* at 40-41.

[37] *Id.*

[38] *Id.*

[39] *Rollo*, p. 41.

[40] *Id.*

[41] *Rollo*, pp. 49-50.

Supreme Court E-Library

Third, respondents alleged that Spouses Tappa failed to prove their right over the subject lot because they cannot rely on the certificate of title issued to them on September 18, 1992 by virtue of a free patent.[42] They asserted that Spouses Tappa fraudulently obtained the free patent on Lot No. 3341 by concealing material facts, specifically the fact of not being in possession of the lot since 1963.[43]

The Ruling of the CA

The CA set aside the decision of the RTC.[44] The relevant dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the appeal is hereby **GRANTED**. The assailed decision dated July 6, 2007 is hereby **REVERSED** and **SET ASIDE**, and another one entered **DISMISSING** the complaint.

SO ORDERED.[45]

On the issue of prescription, the CA ruled in favor of respondents and explained that their possession over Lot No. 3341 already ripened into ownership through acquisitive prescription.[46] The CA noted that Spouses Tappa acknowledged in their complaint that they have not been in possession of the lot, and that respondents have been continuously occupying portions of it since 1963.[47] It explained:

The substantial length of time between 1963, up to the time of filing of the present complaint on September 9, 1999, which is more than 30 years, should be considered against [S]pouses Tappa, and in favor of defendants-appellants. Settled is the rule that an uninterrupted adverse possession of the land for more than 30 years could ripen

---

[42] *Id.* at 69; 75-76.

[43] *Id.* at 75.

[44] *Id.* at 81-90.

[45] *Id.* at 89.

[46] *Id.* at 86.

[47] *Id.* at 85-86.

Supreme Court E-Library

into ownership of the land through acquisitive prescription, which is a mode of acquiring ownership and other real rights over immovable property. Hence, appellants' possession of the land has ripened into ownership by virtue of acquisitive prescription.[48] (Citation omitted.)

On the merits of the case, the CA ruled that the two indispensable requisites for an action to quiet title under Articles 476 and 477 of the Civil Code were not met.[49]

The first requisite is absent because Spouses Tappa do not have a legal or an equitable title to or an interest in the property. The CA explained that the free patent granted to Spouses Tappa produced no legal effect because Lot No. 3341 was a private land, thus:

> As heretofore discussed, the open, continuous, exclusive, and notorious possession by appellants of the subject parcel of land within the period prescribed by law has effectively converted it into a private land. Consequently, the registration in the name of Maria Tappa on September 18, 1992 under OCT [No.] P-69103, by virtue of Free Patent No. 021519-92-3194, produces no legal effect. Private ownership of land—as when there is a *prima facie* proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants—is not affected by the issuance of a free patent over the same land, because the Public Land [L]aw applies only to lands of the public domain.[50] (Citation omitted.)

The CA further stated that while Spouses Tappa were able to obtain a free patent over the property, and were able to register it under the Torrens system, they have not become its owners. The CA said that "[r]egistration has never been a mode of acquiring ownership over immovable property—it does not create title nor vest one but it simply confirms a title already vested, rendering it forever indefeasible."[51]

---

[48] *Id.* at 86.

[49] *Id.* at 86-87.

[50] *Id.* at 87.

[51] *Id.* at 89; citation omitted.

Supreme Court E-Library

The second requisite that the deed, claim, encumbrance or proceeding claimed to be casting cloud on the title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity is likewise unavailing. The CA ruled that no other evidence (aside from Delfin's own testimony) was presented to prove the allegation of fraud and intimidation, making the testimony self-serving.[52] The CA further noted that Delfin's own sister, Fermina, one of the signatories of the 1963 Affidavit, belied his testimony. Fermina testified that they went to the house of one Atty. Carag to sign the affidavit and they did so, on their own.[53]

Spouses Tappa filed a Motion for Reconsideration,[54] which the CA denied.[55]

Hence, spouses Tappa filed a petition for review on *certiorari* before this court, raising the following issues:

I. Whether the CA erred in dismissing Spouses Tappa's complaint for quieting of title against respondents;[56]

II. Whether the CA erred in not finding that Spouses Tappa's certificate of title cannot be collaterally attacked in this case;[57] and

III. Whether the CA erred in finding that respondents have acquired the property through acquisitive prescription.[58]

The Ruling of the Court

We affirm the decision of the CA.

The action for quieting of title should not prosper.

---

[52] *Id.* at 87.

[53] *Id.* at 87-89.

[54] *Id.* at 91-98.

[55] *Id.* at 100-101.

[56] *Id.* at 17.

[57] *Id.* at 22.

[58] *Id.*

Supreme Court E-Library

The action filed by Spouses Tappa was one for quieting of title and recovery of possession. In *Baricuatro, Jr. v. Court of Appeals*,[59] an action for quieting of title is essentially a common law remedy grounded on equity, to wit:

> x x x Originating in equity jurisprudence, its purpose is to secure ". . . an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from any danger of hostile claim." In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants, ". . . not only to place *things in their proper place*, to make the one who has no rights to said immovable *respect and not disturb* the other, but also for the *benefit of both*, so that he who has the right would see every *cloud of doubt over* the property dissipated, and he could afterwards without fear *introduce the improvements* he may desire, to *use*, and even to *abuse* the property as he deems best. x x x."[60] (Emphasis in the original.)

In our jurisdiction, the remedy is governed by Article 476 and 477 of the Civil Code, which state:

> Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance 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.
>
> Art. 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject- matter of the action. He need not be in possession of said property.

From the foregoing provisions, we reiterate the rule that for an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a

---

[59] G.R. No. 105902, February 9, 2000, 325 SCRA 137.

[60] *Id.* at 146-147.

Supreme Court E-Library

legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.[61]

Spouses Tappa failed to meet these two requisites.

First, Spouses Tappa's claim of legal title over Lot No. 3341 by virtue of the free patent and the certificate of title, OCT No. P-69103 issued in their name cannot stand. The certificate of title indicates that it was issued by virtue of Patent No. 021519-92-3194. We agree with the CA that at the time of the application for free patent, Lot No. 3341 had already become private land by virtue of the open, continuous, exclusive, and notorious possession by respondents. Hence, Lot No. 3341 had been removed from the coverage of the Public Land Act,[62] which governs public patent applications.

The settled rule is that a free patent issued over a private land is null and void, and produces no legal effects whatsoever. Private ownership of land—as when there is a *prima facie* proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants—is not affected by the issuance of a free patent over the same land, because the Public Land Law applies only to lands of the public domain. The Director of Lands has no authority to grant free patent to lands that have ceased to be public in character and have passed to private ownership.[63]

In *Magistrado v. Esplana*,[64] we cancelled the titles issued pursuant to a free patent after finding that the lots involved

---

[61] *Calacala v. Republic*, G.R. No. 154415, July 28, 2005, 464 SCRA 438, 444; *Mananquil v. Moico*, G.R. No. 180076, November 21, 2012, 686 SCRA 123, 129-130.

[62] Commonweatlh Act No. 141, as amended.

[63] *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*, G.R. No. 151440, June 17, 2003, 404 SCRA 193, 199.

[64] G.R. No. 54191, May 8, 1990, 185 SCRA 104.

Supreme Court E-Library

were privately owned since time immemorial. A free patent that purports to convey land to which the Government did not have any title at the time of its issuance does not vest any title in the patentee as against the true owner.[65]

In this case, the parties were able to show that Lot No. 3341 was occupied by, and has been in possession of the Tappa family, even before the 1963 Affidavit was executed. After the execution of the 1963 Affidavit, respondents occupied their respective portions of the property. Delfin testified that before his father, Lorenzo, died in 1961, Lorenzo had been occupying the lot since before the war, and that Delfin was born there in 1934.[66]

Records show that Lorenzo declared Lot No. 3341 for taxation purposes as early as 1948, and paid the real property taxes (evidenced by real property tax payment receipts in the name of Lorenzo from 1952 until his death in 1961).[67] Spouses Tappa were likewise shown to pay the real property taxes from 1961 to 2000.[68] Similarly, respondents also declared their respective portions of Lot No. 3341 for taxation in their names in 1994, and paid real property taxes on those portions from 1967 to 2004.[69] Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, they are good *indicia* of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. They constitute at least proof that the holder has a claim of title over the property.[70]

Spouses Tappa also admitted in their complaint that sometime in 1963, Bacud and Malupeng started occupying portions of Lot No. 3341 and planted crops on the property, while

---

[65] *Agne v. Director of Lands*, G.R. No. 40399, February 6, 1990, 181 SCRA 793, 808.

[66] TSN, April 19, 2002, pp. 7-8.

[67] Records, pp. 65, 68-78.

[68] *Id.* at 65, 79-126.

[69] *Id.* at 202-203, 206, 208-212, 214-228, 230.

[70] *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*, *supra*.

Supreme Court E-Library

Calabazaron did the same on another portion of the lot in the 1970's.[71] The complaint stated further that since 1963, the respondents "continuously occupied portion of the subject land."[72]

In view of the foregoing circumstances that show open, continuous, exclusive and notorious possession and occupation of Lot No. 3341, the property had been segregated from the public domain.[73] At the time the patent and the certificate of title were issued in 1992, Spouses Tappa and their predecessors-in-interest were already in possession, at least to the half of the lot, since 1934; and respondents were also in possession of the other half since 1963. Therefore, the free patent issued covers a land already segregated from the public domain.

In *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*,[74] we ruled, thus:

> Considering the open, continuous, exclusive and notorious possession and occupation of the land by respondents and their predecessors in interests, they are deemed to have acquired, by operation of law, a right to a government grant without the necessity of a certificate of title being issued. The land was thus segregated from the public domain and the director of lands had no authority to issue a patent. Hence, the free patent covering Lot 2344, a private land, and the certificate of title issued pursuant thereto, are void.[75]

Records also show that Spouses Tappa were aware of respondents' possession of the disputed portions of Lot No. 3341.

---

[71] Records, p. 2.

[72] *Id.*

[73] *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago, supra*.

[74] G.R. No. 151440, June 17, 2003, 404 SCRA 193, citing *Robles v. Court of Appeals,* G.R. No. 123509, March 14, 2000, 328 SCRA 97; *Heirs of Marciano Nagaño v. Court of Appeals,* G.R. No. 123231, November 17, 1997, 282 SCRA 43; *Mendoza v. Navarette,* G.R. No. 82531, September 30, 1992, 214 SCRA 337; *Azarcon v. Vallarta*, G.R. No. L-43679, October 28, 1980, 100 SCRA 450; *Herico v. Dar,* G.R. No. L-23265, January 28, 1980, 95 SCRA 437; and *Mesina v. Vda. de Sonza, et al.,* 108 Phil. 251 (1960).

[75] *Id.* at 200.

Supreme Court E-Library

They even admitted such possession (since 1963) by respondents in their complaint filed in 1999. Despite this, Spouses Tappa were able to obtain a free patent of the *whole* property even if they were not in possession of some of its portions. Therefore, Free Patent No. 021519-92-3194 and OCT No. P-69103 are void not only because it covers a private land, but also because they fraudulently included[76] respondents' portion of the property. In *Avila v. Tapucar,*[77] we held that "[i]f a person obtains a title under the Torrens system, which includes by mistake or oversight land which can no longer be registered under the system, he does not, by virtue of the said certificate alone, become the owner of the lands illegally included."[78]

In an action to quiet title, legal title denotes registered ownership, while equitable title means beneficial ownership.[79] As discussed, the free patent and the certificate of title issued to Spouses Tappa could not be the source of their legal title.

The second requisite for an action to quiet title is likewise wanting. We find that although an instrument (the 1963 Affidavit) exists, and which allegedly casts cloud on Spouses Tappa's title, it was not shown to be in fact invalid or ineffective against Spouses Tappa's rights to the property.

A cloud on a title exists when (1) there is an instrument (deed, or contract) or record or claim or encumbrance or proceeding; (2) which is apparently valid or effective; (3) but is, in truth and in fact, invalid, ineffective, voidable, or unenforceable, or extinguished (or terminated) or barred by extinctive prescription; and (4) and may be prejudicial to the title.[80]

---

[76] Cf. *Heirs of Simplicio Santiago v. Heirs of Mariano Santiago, supra*.

[77] G.R. No. L-45947, August 27, 1991, 201 SCRA 148.

[78] *Id.* at 155; citations omitted.

[79] *Mananquil v. Moico*, G.R. No. 180076, November 21, 2012, 686 SCRA 123, 124.

[80] Paras, *CIVIL CODE OF THE PHILIPPINES ANNOTATED*, 2013 ed., Vol. II, pp. 299-300; *Green Acres Holdings, Inc. v. Cabral*, G.R. Nos. 175542 & 183205, June 5, 2013, 697 SCRA 266, 289-290.

Supreme Court E-Library

The 1963 Affidavit is no doubt an instrument, which appears to be valid. It is dated and appears to be executed and signed by Delfin, his mother, and sisters. It is also notarized by a public notary. It states that Genaro originally owns the land described, and that one-half (½) of which is actually owned by Irene as a co-heir. This is contrary to the claim of Spouses Tappa that the property was solely Lorenzo's. Respondents' argue that this affidavit evidences the title of their predecessor-in-interest over Lot No. 3341 and effectively, theirs.[81]

The 1963 Affidavit however, was not proven to be, in fact, invalid, ineffective, voidable, or unenforceable, or extinguished (or terminated) or barred by extinctive prescription. The CA correctly found that Spouses Tappa's claim of force and intimidation in the execution of the 1963 Affidavit was "unsubstantiated."[82] The CA pointed out that, "[a]side from the testimony of Delfin Tappa, no other evidence was presented to prove the claim of force and intimidation, hence, it is at most, self-serving."[83] Also, the 1963 Affidavit was duly notarized and, as such, is considered a public document, and enjoys the presumption of validity as to its authenticity and due execution.

Thus, we affirm the ruling of the CA that the requisites for an action to quiet title are wanting in this case.[84]

There is no collateral attack on the Certificate of Title.

Spouses Tappa argue that respondents collaterally attacked the certificate of title of Lot No. 3441 when they raised the issue of its validity. Spouses Tappa used the same argument against the CA when it declared the certificate of title to be without legal effect.[85]

---

[81] *Rollo*, p. 110.

[82] *Id.* at 87.

[83] *Id.*

[84] *Id.*

[85] *Rollo,* pp. 23-24.

Supreme Court E-Library

Spouses Tappa's argument is without merit. The certificate of title was not collaterally attacked. Section 48 of PD 1529,[86] provides that "[a] certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law." This rule is not applicable in this case.

We reiterate our ruling in *Lee Tek Sheng v. Court of Appeals*,[87] where we stated that, "[w]hat cannot be collaterally attacked is the certificate of title and not the title. The certificate referred to is that document issued by the Register of Deeds x x x. By title, the law refers to ownership which is represented by that document."[88] Ownership is different from a certificate of title, the latter being only the best proof of ownership of a piece of land.[89] Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used.[90]

In *Vda. de Figuracion v. Figuracion-Gerilla,*[91] citing *Lacbayan v. Samoy, Jr.*,[92] we reaffirm this ruling, and stated that:

> Mere issuance of a certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership with persons not named in the certificate, or that the registrant may only be a trustee, or that other parties may have acquired interest over the property subsequent to the issuance of the certificate of title. Stated differently, placing a parcel of land under the mantle of the Torrens system does not mean that ownership thereof can no longer be disputed. The certificate cannot always be considered as conclusive evidence of ownership.[93]

---

[86] Property Registration Decree.

[87] G.R. No. 115402, July 15, 1998, 292 SCRA 544.

[88] *Id.* at 547.

[89] *Id.* at 548.

[90] *Id.*

[91] G.R. No. 151334, February 13, 2013, 690 SCRA 495.

[92] G.R. No. 165427, March 21, 2011, 645 SCRA 677, 690.

[93] *Vda. de Figuracion v. Figuracion-Gerilla*, *supra* at 508-509.

Supreme Court E-Library

In this case, what respondents dispute, as raised in their Answer, is Spouses Tappa's claim of sole ownership over Lot No. 3341. As affirmative defense, respondents claimed that Spouses Tappa were owners of only one- half (½) of the lot since it was originally owned by Genaro, the father of Lorenzo and Irene.[94] Respondents claim that Lorenzo and Irene became *ipso facto* co-owners of the lot.[95] Thus, respondents claim that, by virtue of a valid transfer from Irene's heirs, they now have ownership and title over portions of Lot No. 3341, and that they have been in continuous, exclusive, and uninterrupted possession of their occupied portions.[96] Malupeng and Calabazaron claim ownership and title over their respective portions by virtue of a valid sale. Bacud claims ownership and title by virtue of succession. Therefore, it is the ownership and title of Spouses Tappa which respondents ultimately attack. OCT No. P-69103 only serves as the document representing Spouses Tappas' title.

Respondents cannot likewise argue that the certificate of title of Spouses Tappa is indefeasible.[97] We have already ruled that the one-year prescriptive period does not apply when the person seeking annulment of title or reconveyance is in possession of the property.[98] This is because the action partakes of a suit to quiet title, which is imprescriptible.[99] In this case, respondents have been proved to be in possession of the disputed portions

---

[94] Records, p. 9.

[95] *Rollo*, p. 36.

[96] *Id.* at 36-37; Records, p. 10.

[97] *Wee v. Mardo,* G.R. No. 202414, June 4, 2014, 725 SCRA 242, 252. The pertinent portion of the decision reads:

A public land patent, when registered in the corresponding Register of Deeds, is a veritable Torrens title, and becomes as indefeasible upon the expiration of one (1) year from the date of issuance thereof. Said title, like one issued pursuant to a judicial decree, is subject to review within one (1) year from the date of the issuance of the patent.

[98] *Heirs of Simplicio Santiago v. Heirs of Mariano Santiago*, *supra* note 74 at 203.

[99] *Id.*

of Lot No. 3341. Thus, their claim against Spouses Tappa cannot be barred by the one-year prescriptive period.

WHEREFORE, in view of the foregoing, the petition is **DENIED** and the Decision of the Court of Appeals in CA-G.R. CV No. 90026 is **AFFIRMED.**

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Perez, and *Reyes, JJ.,* concur.

SECOND DIVISION

[G.R. No. 192320. April 4, 2016]

BENJAMIN L. VERGARA, JONA M. SARVIDA and JOSEPHINE P. SABALLA, *petitioners, vs*. **ATTY. EUSEBIO I. OTADOY, JR.**, *respondent.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; PRE-TRIAL; MOTION TO POSTPONE PRE-TRIAL CONFERENCE MUST ESTABLISH A VALID CAUSE.— Under Rule 18 of the Rules of Court, the counsels and the parties are mandated to appear at pre-trial. Their non-appearance may be excused only if there is a **valid cause** or if a representative appears on their behalf. If the defendant fails to appear, the RTC may allow the plaintiff to present evidence *ex parte* and may render judgment based on it. This Court has ruled that a motion for postponement is a privilege and not a right. The movant should not assume that his motion would be granted. In deciding whether to grant or deny a motion to postpone the pre-trial, the court must take into account two factors: (a) the reason given, and (b) the merits of the movant's case. x x x [Here,] we find that [respondent] did not sufficiently establish a valid cause to postpone the