THIRD DIVISION

[G.R. No. 195500; March 17, 2021]

HEIRS OF LEONARDA LATOJA, namely ANTONIA D. FABILANE, PRUDENCIA D. BELLO, represented by PETRA F. NEGADO, *Petitioners, v.* **HEIRS OF GAVINO LATOJA, namely TEODOSIA FIGUEROA, NICASIO LATOJA III, ROSA CANDARI and other Heirs represented by FRIOLAN [*] RAGAY and MARIA OBREGON, PENRO OF SAMAR, AND REGISTER OF DEEDS OF SAMAR,** *Respondents.*

APPEARANCES OF COUNSEL

Severo Moreno for petitioners.
Bohol Bohol II Jimenez Law Office for respondents.

D E C I S I O N

HERNANDO, *J.*:

For resolution is a *Petition for Review on Certiorari*[1] filed by petitioners Heirs of Leonarda Latoja (Leonarda), namely Antonia D. Fabilane (Antonia) and Prudencia F. Bello (Prudencia), represented by Petra F. Negado (Petra), which assails the July 22, 2010 *Decision*[2] of the Court of Appeals (CA) in CA-G.R. CV No. 01656 which reversed and set aside the May 29, 2006 *Decision*[3] of the Regional Trial Court (RTC) of Calbiga, Samar, Branch 33.

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[*] Froilan in some parts of the records.

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

[2] Id. at 30-38; penned by Associate Justice Edgardo L. Delos Santos (now a Member of this Court) and concurred in by Associate Justices Agnes Reyes-Carpio and Eduardo B. Peralta, Jr.

[3] Id. at 42-53; penned by Judge Agerico A. Avila.

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The RTC found in favor of the Heirs of Leonarda in a case for *Declaration of Nullity of Title, Reconveyance and Damages*, thereby ordering the reconveyance as well as the surrender and consequent cancellation of Original Certificate of Title No. 20783 (OCT 20783) in the name of the Heirs of Gavino Latoja (Gavino) represented by Friolan Ragay (Friolan).[4]

The Antecedents:

This *petition* involves from a 4,125.99-square meter lot (Lot 5366) located in Villareal, Samar.[5] In 1903, the spouses Tomas Dalaruya and Leonarda Latoja allegedly possessed, resided, and cultivated Lot 5366. In 1945, Leonarda declared said lot for taxation purposes. When the spouses died, their five children, namely Anacleto, Dionesio, Balbina, Antonia and Sofronia inherited Lot 5366. In 1960, Balbina sold her share to Antonia;[6] Anacleto and Sofronia likewise sold their shares to Antonia a month apart in 1967.[7]

On the other hand, Friolan, a relative and representative of the Heirs of Gavino, purportedly occupied and administered Lot 5366 when his aunt died.[8] He applied for a free patent over said lot through the assistance of Elmer Talbo (Elmer), Land Inspector of the Community Environment and Natural Resources Office (CENRO) of Basey, Samar.[9] When Friolan approached Elmer in the field, the latter readily received and accepted the free patent application on February 8, 1999, absent a personal inspection of the lot as he was already leaving for Basey, Samar.[10] On the succeeding day, Elmer personally posted the Notice of Application in Villareal, processed the application

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[4] Id. at 52-53.

[5] Records, Vol. I, pp. 1-9.

[6] Records, Vol. III, p. 553.

[7] Id. at 555 and 557.

[8] TSN, March 24, 2006, pp. 4-5.

[9] Id. at 6. See also TSN, January 30, 2004, pp. 5-6; *rollo*, p. 31.

[10] TSN, March 12, 2004, pp. 10-12; see also *rollo*, p. 31.

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in the office, and conducted a Confirmatory Report.[11] By virtue of the award of Patente Blg. 086021-99-1181 issued on March 12, 1999, a *Katibayan ng Orihinal na Titulo Blg. 20783*[12] (OCT 20783) was subsequently secured and registered in the name of the Heirs of Gavino, as represented by Friolan.

Distressed upon knowing of this development, the Heirs of Leonarda instituted before the RTC a *Complaint*[13] for *Declaration of Nullity of Title, Reconveyance and Damages* contending that they inherited Lot 5366 from their predecessors-in-interest who are the real owners and possessors of the lot since time immemorial. They asserted that the Heirs of Gavino and Friolan obtained the free patent and the consequent OCT 20783 through fraud and false representation that they were owners and possessors of Lot 5366. They also avowed that the posting of notice of the free patent application as required under the Public Land Act was not complied with. Due to this non-compliance, the Heirs of Leonarda failed to take action against the free patent application.[14]

In their *Answer with Counterclaim*,[15] the Heirs of Gavino interposed a general denial of all allegations set forth in the complaint, and raised the following special and affirmative defenses: that the trial court failed to acquire jurisdiction over the person of indispensable heirs; that the Heirs of Leonarda have no legal capacity to sue or have a cause of action; that there was an existing action involving the same parties and for the same cause; that the claims of the Heirs of Leonarda have been waived or extinguished; and that a condition *sine qua non* before the filing of the complaint was not complied with.[16]

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[11] Id. at 16-20; id.

[12] Records, Vol. III, pp. 581-582.

[13] Records, Vol. I, pp. 1-9.

[14] Id.

[15] Id. at 33-36.

[16] Id.

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While the trial court denied most of the defenses raised, it nonetheless held that prescription, lack of cause of action and unenforceability were to be adjudicated on the merits based on clear and convincing evidence.

Ruling of the Regional Trial Court:

In its Decision[17] dated May 29, 2006, the trial court found that OCT 20783 had already become indefeasible when the Complaint for *Declaration of Nullity of Title, Reconveyance and Damages* was filed.[18] Nonetheless, it ruled that while an action for reconveyance acknowledges the incontrovertible nature of a decree of registration, the very essence of reconveyance is to transfer the property that was erroneously registered in another's name back to the rightful owner or to the one with a better right.[19] Moreover, it held that Lot 5366 has remained in the possession of Leonarda and her heirs to the exclusion of other persons as established by Petra's testimony, the Land Data Chart which showcased that Lot 5366 was surveyed for Leonarda, and Antonia's continuous payments of real property tax of the land in the name of her mother from 1945 to 1999.[20]

In relation to the allegation of fraud, the trial court held that the Heirs of Leonarda sufficiently proved that Friolan committed misrepresentation coupled with bad faith in the application for free patent. Despite knowing that the Heirs of Leonarda were in actual possession of Lot 5366, Friolan represented in the application that Gavino occupied said lot since 1920. In addition, Friolan even testified he did not reside in Lot 5366 but in the adjacent Lot 5367. The trial court did not give credence to Elmer's testimony that he posted a notice of application in Villareal in compliance with Section 46 of the Public Land Act. The apparent expedited processing of the application and the alleged conduct of verification even prior to the filing of application rendered

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[17] *Rollo*, pp. 42-53.

[18] Id. at 52-53.

[19] Id. at 49.

[20] Id. at 49-49-A.

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the alleged compliance improbable and incredible. Finally, the trial court found the evidence proffered by the Heirs of Leonarda sufficient to overthrow the presumption of regularity in the performance of official duty.

The dispositive portion of the trial court's Decision reads as follows:

> PREMISES CONSIDERED, the Court finds preponderance of evidence leaning heavily towards the plaintiffs and thus hereby rules as follows:
>
> 1. The cancellation of Original Certificate of Title No. 20783 in the name of the Heirs of Gavino Latoja represented by Froilan Ragay, issued on 29 March 1999, and consequently is hereafter declared null and void. Defendant Friolan Ragay[,] his assigns or any representative or any one of the heirs of Gavino Latoja is directed to deliver and surrender the same to the Register of Deeds of Samar sitting at Catbalogan, Samar;
>
> 2. That the Free Patent No. 086021-99-1181 is awarded to the Heirs of Leonarda Latoja instead of the heirs of Gavino Latoja, the former having a better right to the land subject of same free patent;
>
> 3. That upon reconveyance, delivery and surrender of Original Certificate of Title No. 20783 to the Register of Deeds of Samar, the latter is to cause the annotation of the Free Patent No. 086021-99-1181 in the name of the Heirs of Leonarda Latoja and issue an Original Certificate of Title in same name;
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> 4. That defendant Froilan Ragay is to pay exemplary damages of ₱30,000.00 and reasonable attorney's fees and litigation expenses of ₱50,000.00 to plaintiffs;
>
> 5. That the counterclaims are dismissed; and,
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> 6. Cost of this suit.
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> SO ORDERED.[21]

This prompted the Heirs of Gavino to elevate the case on appeal to the CA. They challenged the *ratio* of the trial court by mainly arguing that there was compliance with the substantial

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[21] Id. at 52-53.

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and procedural requirements set forth in the Public Land Act; that the Heirs of Leonarda failed to discharge their burden of proof, hence, the trial court's Decision was anchored on the deficiency and frailty of the defense's evidence.

Ruling of the Court of Appeals:

The appellate court found the appeal of the Heirs of Gavino meritorious in its *Decision*[22] dated July 22, 2010. It held that the trial court erred when it disregarded the indefeasibility of title. Based on the appellate court's findings, the assertion of fraud was unsubstantiated in evidence. It stressed that the law contemplates extrinsic fraud as a ground to reopen a decree of registration.[23] However, there was no showing that the Heirs of Gavino employed actual and extrinsic fraud in applying for the free patent and the resulting certificate of title.[24] Moreover, the Heirs of Leonarda did not timely assert their claim since the posting of the notice of application was properly complied with. Lastly, the appellate court emphasized that a certificate of title obtained under the Torrens System cannot be defeated by a mere claim of ownership since the proceedings in securing a title is directed against all persons which include those who have interest on the land. It decreed in this wise:

> WHEREFORE, the instant appeal is GRANTED. The Decision dated May 29, 2006 of the Regional Trial Court of Calbiga, Samar, in Civil Case No. C-2001-1030, is hereby REVERSED AND SET ASIDE.
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> SO ORDERED.[25]

Aggrieved, petitioners filed a *Motion for Reconsideration*[26] which the Court of Appeals likewise denied in a *Resolution*[27]

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[22] Id. at 30-38.

[23] Id. at 33.

[24] Id.

[25] Id. at 38.

[26] CA *rollo*, pp. 176-191.

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

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dated January 12, 2011. Undeterred, petitioners filed the instant *Petition for Review on Certiorari*[28] raising the following issues, to wit:

(1)

THE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT [DECLARED] THAT THE PATENTE BLG. 086021-99-1181 WITH THE CORRESPONDING KATIBAYAN NG ORIHINAL NA TITULO BLG. 20783 ARE ALREADY INDEFEASIBLE, IRREVOCABLE AND INDISPUTABLE BECAUSE MORE THAN ONE (1) YEAR HAD ALREADY ELAPSED SINCE THE DATE OF THEIR ISSUANCE, THUS REVERSING AND SETTING ASIDE THE DECISION OF THE LOWER COURT.

(2)

THE COURT OF APPEALS ERRED [IN HOLDING] THAT THE ALLEGATIONS OF FRAUD BY THE PETITIONERS ARE MORE IMAGINARY THAN REAL.[29]

In their *Petition*[30] and *Compliance with Reply*,[31] the Leonarda heirs maintain that notwithstanding the fact that OCT 20783 had already attained finality and had become indefeasible; their action for reconveyance is one exception where such title may be directly attacked since Lot 5366 was erroneously registered in the name of another who is not the rightful owner.[32] They further aver that even if Section 91 of the Public Land Act does not specifically mention extrinsic fraud, this provision nonetheless contemplates false statements or omission of facts made by the applicant in the application for free patent that would *ipso facto* produce the cancellation of title or permit.[33]

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[28] Id. at 10-28.

[29] Id. at 17.

[30] Id. at 10-28.

[31] Id. at 116-119.

[32] Id. at 18.

[33] Id. at 21.

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Even more striking are the badges of fraud such as the issuance of OCT 20783 prior to the actual survey of Lot 5366, and the conduct of the interview a month prior to the filing of the application for free patent.[34] The Heirs of Leonarda insist that the appellate court failed to recognize these irregularities in the award of free patent and the consequent issuance of OCT 20783, which were substantially supported in evidence.

On the other hand, the Heirs of Gavino assert in their *Comment*[35] and *Rejoinder*[36] that the purpose of the Torrens System is to put an end and to finally settle any question regarding the legality of the title. They persistently claim that the corresponding notice of application was in fact posted by Elmer, without contrary proof adduced by the Heirs of Leonarda. Hence, Elmer must be presumed to have regularly performed his duties absent any rebuttal from the Heirs of Leonarda. They also cite Section 101 of the Public Land Act to support their supplication that all actions for reversion of lands of public domain must be instituted by the Solicitor General or the officers acting in his stead, and not private persons such as the Heirs of Leonarda.

The two-pronged issue before Us: *first*, whether or not the title arising from the award of free patent has become indefeasible so as to foreclose the action for reconveyance; and *second*, whether or not the Heirs of Gavino employed fraud paving the way for the reconveyance in favor of the Heirs of Leonarda.

Our Ruling

The *petition* is meritorious.

In a petition for review on *certiorari* under Rule 45 of the *Revised Rules of Court*, only questions of law may be raised and entertained as a rule considering that this Court is not a trier of facts, and questions of fact are left to the wisdom and

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[34] Id. at 22.

[35] Id. at 67-78.

[36] Id. at 121-128.

determination of the trial courts.[37] Ascertaining whether or not fraud was employed in an application for free patent is a question of fact.[38] This Court generally adheres to the factual findings of the trial court and the appellate court especially when these tribunals have similar findings. However, as an exception to the rule, this Court may re-examine evidence and rule on a question of fact when the findings of fact are conflicting or when the findings of the appellate court are contrary to those of the trial court, among other grounds.[39] In the case at bench, We are presented with incongruent assessments of the trial court and of the appellate court with regard to the surrounding circumstances anent Friolan's application for free patent over Lot 5366, and the subsequent registration thereof under the Torrens System. With this conflict at hand, We are constrained to review the records and the evidence of this case *vis-a-vis* the legal question for resolution.

Despite the title's indefeasibility, an action for reconveyance may still prosper.

The principle of indefeasibility of a Torrens title has been carved in case law edicts. This means that a certificate of title registered under the Torrens System serves as proof of an incontrovertible title over the property in favor of the individual whose name appears on the title.[40] With the emergence of the Torrens System, the integrity and conclusiveness of a certificate of title may be guaranteed and preserved. However, this system frowns upon those who fraudulently secure a certificate of title to the prejudice of the real owner of the land. Hence, usurpers who intend to enrich themselves cannot hide under the mantle

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[37] *Heirs of Mendoza v. Valte*, 768 Phil. 539, 552-553 (2015).

[38] Id.

[39] *Spouses Miano v. Manila Electric Co.*, 800 Phil. 118, 123 (2016), citing *Medina v. Mayor Asistio, Jr.*, 269 Phil. 232 (1990).

[40] *Spouses Peralta v. Heirs of Abalon*, 737 Phil. 310, 322 (2014), citing *Pioneer Insurance and Surety Corporation v. Heirs of Coronado*, 612 Phil. 573 (2009).

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of the Torrens System[41] which may only be cancelled, altered or modified through a direct attack where the objective of the action is to annul or set aside the judgment or enjoin its enforcement.[42]

An action for reconveyance based on fraud is a direct attack on a Torrens title.[43] It follows that despite the finality accorded to a Torrens title, reconveyance may prosper as an equitable remedy given to the rightful owner of a land that was erroneously registered in the name of another. This action recognizes the validity of the registration and its incontrovertible nature; it does not question the indefeasibility of the Torrens title.[44]

In *Heirs of Loyola v. Court of Appeals*,[45] this Court expounded on the quantum of proof that is required in an action for reconveyance on the ground of fraud, *viz.*:

> Fraud and irregularity are presupposed in an action for reconveyance of property. **The party seeking to recover the property must prove, by clear and convincing evidence, that he or she is entitled to the property, and that the adverse party has committed fraud in obtaining his or her title.** Allegations of fraud are not enough. Intentional acts to deceive and deprive another of his right, or in some manner injure him, must be specifically alleged and proved. In the absence of any proof, the complaint for reconveyance cannot be granted.[46] (Emphasis supplied)

From the foregoing disquisition, an allegation of fraud in an action for reconveyance must have two requisites. *First*, that

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[41] Id. at 324, citing *Heirs of Doronio v. Heirs of Doronio*, 565 Phil. 766 (2007).

[42] *Hortizuela v. Tagufa*, 754 Phil. 499, 506 (2015).

[43] *Firaza, Sr. v. Spouses Ugay*, 708 Phil. 24, 30 (2013).

[44] *Uy v. Court of Appeals*, 769 Phil. 705, 718-719 (2015).

[45] 803 Phil. 143, 161 (2017).

[46] Id. at 161, citing *Heirs of Brusas v. Court of Appeals*, 372 Phil. 47, 55 and 58 (1999). See also *Riosa v. Tabaco La Suerte Corporation*, 720 Phil. 586, 595 (2013).

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the individual seeking reconveyance must prove entitlement or ownership over the property in question, and *second*, that fraud must be established by clear and convincing evidence, not just based on mere surmises or conjectures.

At this juncture, We note that OCT 20783 had already attained finality when the complaint was lodged against the Heirs of Gavino. However, the indefeasibility of OCT 20783 as a Torrens title does not bar an action for reconveyance involving land covered thereof. In fact, an action for reconveyance is imprescriptible when the plaintiff, Heirs of Leonarda in this case, is in possession of the land subject of reconveyance,[47] and provided that the land in issue has not yet passed to an innocent purchaser for value. This Court enunciated the *ratio* for this stance in *Campos v. Ortega, Sr.*,[48] to wit:

> In *Alfredo v. Borras*, the Court ruled that prescription does not run against the plaintiff in actual possession of the disputed land because such plaintiff has a right to wait until his possession is disturbed or his title is questioned before initiating an action to vindicate his right. **His undisturbed possession gives him the continuing right to seek the aid of a court of equity to determine the nature of the adverse claim of a third party and its effect on his title**. The Court held that where the plaintiff in an action for reconveyance remains in possession of the subject land, the action for reconveyance becomes in effect an action to quiet title to property, which is not subject to prescription.[49] (Emphasis Supplied)

Thus, despite the lapse of one year from the issuance of OCT 20783, the action for reconveyance is still an appropriate and available remedy for the Leonarda heirs. Here, they have also sufficiently complied with the two requisites for an action for reconveyance based on fraud.

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[47] *Campos v. Ortega, Sr.*, 734 Phil. 585, 603 (2014).

[48] Id.

[49] Id. at 604.

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Anent the first requisite, the Heirs of Leonarda's evidence on record established that Leonarda was the lawful owner and possessor of Lot 5366 since time immemorial. Upon her demise, said lot was inherited by her five children including Antonia who was adjudged to be the rightful possessor of the 4/5 portion of Lot 5366 on the strength of a decision rendered by the MCTC of Villareal-Pinabacdao, Samar dated August 29, 1994.[50] To reinforce their assertion, the following were also submitted by the Heirs of Leonarda: (a) the Sketch of Lot 5366 in the name of Leonarda issued by the Department of Environment and Natural Resources (DENR) in Tacloban City;[51] (b) a *Resolution*[52] dated March 3, 2002 from the Office of the Sangguniang Barangay of Pang-Pang, Villareal recognizing the ownership of Lot 5366 in the name of Leonarda;[53] (c) a Tax Declaration No. 15199 in the name of Leonarda;[54] and (d) a Tax Clearance Certificate dated April 30, 1999 issued by the Office of the Municipal Treasurer of Villareal, Samar.[55] In addition, Friolan himself admitted in his testimony that Petra was one of the actual occupants of Lot 5366, while he occupied the adjacent Lot 5367.[56] These bespeak of the Heirs of Leonarda's rightful possession, interest and entitlement to Lot 5366, making the first requisite present.

In relation to the second requisite, fraud had been sufficiently proven by the heirs of Leonarda. While the findings of the trial

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[50] Records, Vol. II, pp. 428-439.

[51] Id. at 420.

[52] Id. at 344.

[53] *Resolution Requesting Mrs. Antonia Fabilane and her children to allow Barangay Council of Barangay Pang-pang, Villareal[,] Samar to construct a barangay road (street) on a portion of the Lot No. 5366, CAD. 710-D owned and declared in the name of Leonarda Latoja located within barangay proper of Pang-pang.*

x x x x"

[54] TSN, January 9, 2004, p. 3.

[55] Id. at 5.

[56] TSN, March 24, 2006, p. 19.

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court and the appellate court with regard to the presence or absence of fraud are contrary to each other, We settle that the allegation of fraud is real and evident on the records. Jurisprudence articulates what constitutes fraud. It is characterized by an intentional omission of facts as required by law to be truthfully and correctly stated in the application for free patent or a statement of claim contrary to the truth.[57] It is hornbook doctrine that the party alleging fraud has the burden of proof, and has to meet the quantum of proof which is clear and convincing evidence that is less than proof beyond reasonable doubt but greater than preponderance of evidence.[58] Furthermore, Section 91 of the Public Land Act is specific to the effect that omission of facts or false statements on the material facts set forth in the application for patent shall *ipso facto* produce the cancellation of the concession, title, or permit.[59]

Perusing the records, it is once apparent that Friolan made false statements in his application for free patent notwithstanding his knowledge and awareness that the Heirs of Leonarda were the actual occupants of Lot 5366 at the time when he applied for free patent. In his testimony, Friolan mentioned such fact, to wit:

[ATTY. MORENO]:

Tell to the Honorable Court, that you are residing at the Brgy. Pang-pang, Villareal, Samar, you applied for a pre-patent [free patent] of a certain parcel of land you described as Lot No. 5366, you are staying within this Lot No. 5366?

[ANSWER]: No, sir.

Q: Who is occupying actually this Lot No. 5366?
A: This Petra Nicado [Negado], sir.

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[57] *Republic v. Bellate*, 716 Phil. 60, 71 (2013), citing *Libudan v. Gil*, 150-A Phil. 352 (1972).

[58] *Riguer v. Mateo*, 811 Phil. 538, 547 (2017), citing *Tankeh v. Development Bank of the Philippines*, 720 Phil. 641 (2013).

[59] COMMONWEALTH ACT NO. 141.

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Q: The plaintiff in this case?
A: Yes, sir.

Q: I am correct to say, that you are residing [in] an adjacent lot which is Lot No. 5367?
A: No, is different.

Q: Do you know what lot number you are occupying at this present?
A: Yes, sir, I know.

Q: Please tell to the Honorable Court?
A: In Lot No. 5367, sir.

x x x x[60]

To fortify that misrepresentation and fraud attended the application for free patent, the Heirs of Leonarda presented in evidence the *Application for Free Patent*[61] which was accomplished by Elmer when he interviewed Friolan.[62] It will be observed that Friolan indicated Lot 5366 as the land subject for the free patent and represented that Gavino first entered and cultivated such lot since 1920. Glaringly, he further claimed that no other individuals were occupying said lot, *viz.*:

4. The land described and applied for is not claimed or occupied by any other person but is public land. I entered upon and begun cultivation on the same on 1936 and since that date I have continuously cultivated the land and have made thereon the following improvements: cocos.[63]

The contradictory and inconsistent statements in his testimony with the claim in the application, declaration in the *Land Data Record Sheet*[64] and *Affidavit*[65] that he is the actual occupant and possessor of Lot 5366 bolster his penchant for twisting the truth

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[60] TSN, March 24, 2006, p. 19.

[61] *Rollo*, p. 54.

[62] TSN, March 12, 2004, p. 11.

[63] *Rollo*, p. 54.

[64] Records, Vol. III, p. 580.

[65] Id. at 576.

constituting fraud in order to secure a free patent that eventually led to the issuance of OCT 20783. To repeat, Friolan was fully aware that the Heirs of Leonarda were the actual occupants of Lot 5366; but he nonetheless applied for a free patent over said lot.

We also affirm the trial court's findings of the attendance of badges of fraud in the issuance of OCT 20783 and in the application for free patent. First, Elmer testified that he personally posted a *Notice of Application*[66] in Villareal the next day after the application for free patent was received.[67] The allegation of compliance with the posting of a notice of application was controverted by a *Certification*[68] of Teofilo Obregon, Barangay Captain of Barangay Pang-pang, Villareal, Samar. Said certification attests that there was no posting of Friolan's free patent application for Lot 5366 in the barangay premises for the month of March and April 1999. Even *granting arguendo* that a notice was posted, such notice indicated that any adverse claim should be filed on or before March 23, 1999. However, OCT 20783 was already issued in the name of the Heirs of Gavino as early as March 12, 1999.[69] The expeditious processing of said OCT casts doubt on the proper compliance with the requirements as provided by law.

In light of these documents and testimonies, it is evident that *Patente Blg. 086021-99-118* was secured though misrepresentation and fraud, and the consequent issuance of OCT 20783 was marked with undue haste in the name of the Heirs of Gavino as represented by Friolan. Tersely, the two requisites of an action for reconveyance were complied with, and the Heirs of Leonarda discharged their burden of proving through clear and convincing evidence that misrepresentation and fraud attended the application and processing of the free

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[66] Id. at 579.

[67] TSN, March 12, 2004, pp. 16-17.

[68] Records, Vol. II, p. 343.

[69] Records, Vol. III, p. 581.

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patent in favor of the Heirs of Gavino. *Ergo*, the appellate court's reversal of the trial court's decision was unwarranted.

Private individuals, aside from the Office of the Solicitor General, may seek direct reconveyance of a land subject of a free patent where the latter was fraudulently obtained.

The Heirs of Gavino invoke Section 101 of the Public Land Act in their attempt to finally defeat the action for reconveyance. Said provision states that all actions for reversion to the government of lands of public domain shall be instituted by the Solicitor General or an officer in his stead. Similarly, in *Spouses Galang v. Spouses Reyes*,[70] the spouses Galang averred that the authority to institute an action to annul the title of a former public land which was titled by virtue of a free patent issued by the DENR is vested with the Solicitor General. This Court disproved said supplication, in this wise:

> In this regard, the Galangs are mistaken. The action filed by the Reyeses seeks the transfer to their names of the title registered in the names of the Galangs. In their Complaint, they alleged that: first, they are the owners of the land, being the owners of the properties through which the Marigman creek passed when it changed its course; and second, the Galangs illegally dispossessed them by having the same property registered in their names. **It was not an action for reversion which requires that the State be the one to initiate the action in order for it to prosper.** The distinction between the two actions was elucidated in the case of *Heirs of Kionisala v. Heirs of Dacut* where it was written:
>
> > An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. Hence in *Gabila v. Barriga* where the plaintiff

[70] 692 Phil. 652-667 (2012).

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> in his complaint admits that he has no right to demand the cancellation or amendment of the defendant's title because even if the title were cancelled or amended the ownership of the land embraced therein or of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.
>
> On the other hand, **a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake**; as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void *ab initio*. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant. x x x.[71] (Emphases Supplied)

Likewise in *Hortizuela v. Tagufa*,[72] this Court expounded on Section 101 of the Public Land Act which admits of an exception when a private individual may institute an action for reconveyance, *viz.*:

A recognized exception is that situation where plaintiff-claimant seeks direct reconveyance from defendant of public land unlawfully and in breach of trust titled by him, on the principle of enforcement of a constructive trust. This was the ruling in *Lorzano v. Tabayag, Jr.*, where it was written:

> A private individual may bring an action for reconveyance of a parcel of land even if the title thereof was issued through a free patent since such action does not aim or purport to re-open the registration proceeding and set aside the decree of

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[71] Id. at 660-661, citing *Kionisala v. Heirs of Dacut*, 428 Phil. 249 (2002).

[72] Supra note 35.

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> registration, but only to show that the person who secured the registration of the questioned property is not the real owner thereof.
>
> In *Roco, et al. v. Gimeda*, we stated that if a patent had already been issued through fraud or mistake and has been registered, the remedy of a party who has been injured by the fraudulent registration is an action for reconveyance, x x x:[73]

Contrary to the assertion of the Heirs of Gavino, the foregoing discourse clarified that the Heirs of Leonarda, as private individuals, are allowed to institute an action for reconveyance of Lot 5366 considering the fraudulent scheme employed by the Heirs of Gavino, represented by Friolan, in securing the free patent which resulted into the registration of OCT 20783 under the latter's names. Considering that the Heirs of Leonarda alleged in their complaint that they are the rightful owners and possessors of Lot 5366 and that they were deprived of the same through the misrepresentation of Friolan in the application for free patent, then they have initiated the proper remedy which is an action for reconveyance.

All told, a land titled by virtue of a fraudulent and defective free patent, disregarding the provisions of the Public Land Act, may be reconveyed to the rightful owner by an action for reconveyance instituted by the latter. Since the Heirs of Leonarda, as actual possessors of Lot 5366, satisfactorily proved by clear and convincing evidence that there was misrepresentation and fraud to their prejudice, the action for reconveyance was correctly adjudicated by the trial court in their favor.

WHEREFORE, the *Petition* is **GRANTED**. The assailed July 22, 2010 *Decision* of the Court of Appeals in CA-G.R. CV No. 01656 is **REVERSED AND SET ASIDE**. The May 29, 2006 *Decision* of the Regional Trial Court of Calbiga, Samar, Branch 33 is hereby **REINSTATED**. Costs on respondents.

SO ORDERED.

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[73] Id., citing *Lorzano v. Tabayag, Jr.*, 681 Phil. 39 (2012).

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Leonen (*Chairperson*), *Inting, Zalameda,*[**] and *J. Lopez, JJ.*, concur.

[**] Designated as additional Member per raffle dated March 9, 2020 vice J. Delos Santos who recused himself for having penned the assailed CA Decision.