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of reasonable doubt. Consequently, he is ordered *RELEASED* from custody, unless he is being lawfully held for another lawful cause. The Director of the Bureau of Corrections is ordered to report to this Court the action taken hereon within five (5) days from receipt hereof.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Carpio, and *Azcuna, JJ.*, concur.

FIRST DIVISION

[G.R. No. 151440. June 17, 2003]

HEIRS OF SIMPLICIO SANTIAGO, Represented by ANGELITA S. CASTRO, *petitioners, vs.* **HEIRS OF MARIANO E. SANTIAGO**, *respondents*.

SYNOPSIS

Lot 2344 was formerly owned by the spouses Vicente and Magdalena Santiago. Among their children were Pablo and Marta. Pablo is the father of Simplicio and Guillermo while Marta is the mother of Jose. In 1984, the heirs of Simplicio initiated a complaint for *accion publiciana* with damages against Mariano, son of Jose. Allegedly, the land was acquired by Simplicio by purchase from his father Pablo and brother Guillermo. He also applied for and was granted free patent over the lot. Mariano, however, entered the land, constructed a house therein and refused to vacate. In answer, Mariano contends that the land in issue was previously subdivided to three portions. Only Lot 2344-B was owned by Simplicio, Lot 2344-C they inherited from their grandmother Marta and Lot 2344-A, they bought from Simplicio as evidenced by a deed of sale. The trial court ruled in favor of

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petitioners but the same was reversed by the Court of Appeals. Hence, this appeal.

Whether the free patent and corresponding certificate of title issued to Simplicio were valid, the Court ruled in the negative as Lot 2344 is not a public land but a private land. Whether Mariano's claim of ownership over the two portions of the land was proper, the Court ruled in the positive. Their ownership of Lot 2344-C was substantiated by their possession of the inherited portion as owners for more than seventy years. Their ownership of Lot 2344-A was evidenced by a deed of sale not sufficiently controverted by Simplicio.

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; FREE PATENT CANNOT BE ISSUED OVER PRIVATE LAND.**— 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. Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain. 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.

2. **ID.; ID.; TAX DECLARATION IS MANIFESTATION OF OWNERSHIP.**— In the instant case, it was established that

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Lot 2344 is a private property of the Santiago clan since time immemorial, and that they have declared the same for taxation. Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, 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. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.

3. **ID.; ID.; OWNERSHIP OF LAND MANIFESTED BY THE EXECUTION OF VALID DEED OF SALE AND POSSESSION OF LAND.**— The Court of Appeals correctly ruled that Lot 2344-C was sold by Simplicio Santiago to Mariano Santiago and Belen Sanchez. The document of sale evidencing the transaction is duly notarized and, as such, is considered a public document and enjoys the presumption of validity as to its authenticity and due execution. This legal presumption was not overcome by petitioners. Other than their allegation that the deed of sale was a forgery, no other evidence was presented to substantiate their claim. Hence, the presumption of validity of the deed of sale, ceding Lot 2344-C to Mariano Santiago and Belen Marcelo, prevails. Furthermore, respondents' assertion of ownership is buttressed by their possession of Lot 2344-C. Immediately after the sale in 1972, Mariano Santiago and Belen Sanchez built a house on the said lot. The lack of opposition on the part of petitioners, indicates that they recognized the validity of the sale and it was only later that they thought of repudiating the authenticity thereof.

4. **ID.; ID.; CERTIFICATE OF TITLE ISSUED PURSUANT TO A HOMESTEAD PATENT; ONE-YEAR PERIOD TO REVIEW; ELUCIDATED.**— A certificate of title issued under an administrative proceeding pursuant to a homestead patent covering a disposable public land within the contemplation of the Public Land Law or Commonwealth Act No. 141 is as indefeasible as a certificate of title issued under a judicial

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registration proceeding. Under the Land Registration Act, title to the property covered by a Torrens certificate becomes indefeasible after the expiration of one year from the entry of the decree of registration. Such decree of registration is incontrovertible and becomes binding on all persons whether or not they were notified of, or participated in, the *in rem* registration process. There is no specific provision in the Public Land Law or the Land Registration Act (Act 496), now Presidential Decree 1529, fixing a similar one-year period within which a public land patent can be considered open to review on the ground of actual fraud (such as that provided for in Section 38 of the Land Registration Act, and now Section 32 of Presidential Decree 1529), and clothing a public land patent certificate of title with indefeasibility. Nevertheless, this Court has repeatedly applied Section 32 of Presidential Decree 1529 to a patent issued by the Director of Lands, approved by the Secretary of Natural Resources, under the signature of the President of the Philippines. The date of the issuance of the patent corresponds to the date of the issuance of the decree in ordinary cases. Just as the decree finally awards the land applied for registration to the party entitled to it, the patent issued by the Director of Lands equally and finally grants and conveys the land applied for to the applicant. The one-year prescriptive period, however, does not apply when the person seeking annulment of title or reconveyance is in possession of the lot. This is because the action partakes of a suit to quiet title which is imprescriptible. In *David v. Malay*, we held that a person in actual possession of a piece of land under claim of ownership may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, and his undisturbed possession gives him the continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his title.

5. **ID.; ID.; PROPERTY REGISTRATION DECREE; CERTIFICATE OF TITLE; ATTACK THEREON MUST BE DIRECT, AS DISTINGUISHED FROM COLLATERAL ATTACK.**— Section 48 of P.D. 1529, the Property Registration Decree, provides that a certificate of title shall not be subject to collateral attack and can not be altered, modified, or canceled except in a direct proceeding. An action is an attack on a title when the object of the action is to nullify the title, and thus challenge the judgment or proceeding pursuant to which the

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title was decreed. The attack is direct when the object of an action is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment or proceeding is nevertheless made as an incident thereof.

6. **ID.; ID.; ID.; ID.; ID.; COUNTERCLAIM CAN BE CONSIDERED AS DIRECT ATTACK.**— While the original complaint filed by the petitioners was for recovery of possession, or *accion publiciana,* and the nullity of the title was raised merely as respondents' defense, we can rule on the validity of the free patent and OCT No. P-10878 because of the counterclaim filed by respondents. A counterclaim can be considered a direct attack on the title. In *Development Bank of the Philippines v. Court Appeals*, we ruled on the validity of a certificate of title despite the fact that the nullity thereof was raised only as a counterclaim. It was held that a counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff. It stands on the same footing and is to be tested by the same rules as if it were an independent action. Moreover, since all the facts necessary in the determination of the title's validity are now before the Court, it would be in the best interest of justice to settle this issue which has already dragged on for 19 years.

7. **ID.; ID.; ACTION FOR RECONVEYANCE; PARTIES; WHERE NULLIFICATION OF FREE PATENT IS ON A PRIVATE LAND, THE STATE IS NOT A PROPER PARTY.**— There is no merit in petitioners' contention that only the State may bring an action for reconveyance of the lots in dispute. To reiterate, Lot 2344 is a private property in open, continuous, exclusive and notorious possession of the Santiago family. The nullification of its free patent and title would not therefore result in its reversion to the public domain. Hence, the State, represented by the Solicitor General, is not the real party-in-interest. Parenthetically, in *Robles v. Court of Appeals*, a case involving the personality to sue for the reconveyance of a private land, we ruled that inasmuch as there was no reversion of the disputed property to the public domain, the State is not the proper party to bring a suit for reconveyance.

8. **ID.; ID.; IMPERFECT TITLE; ENOUGH TO DEFEAT FREE PATENT AND TITLE ISSUED THEREIN BUT STILL SUBJECT TO CONFIRMATION UNDER THE PUBLIC**

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LAND ACT.— It should be clarified that notwithstanding the Court's declaration that Lot No. 2344 is a private property and not a part of the public domain, the parties' title to the said lot is imperfect and is still subject to the rules on confirmation of title under Section 48 (b) of the Public Land Act. Nevertheless, this imperfect title is enough to defeat the free patent and certificate of title issued over the said lot.

APPEARANCES OF COUNSEL

Mallares and Associates Law Offices for petitioners.
Evangelista Perez Cruz & Canto Law Office for respondents.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

A free patent issued over a private land is null and void and produces no legal effects whatsoever. *Quod nullum est, nullum producit effectum*.[1] Free patent applications under the Public Land Act[2] apply only to disposable lands of the public domain, and not to private lands which became such by virtue of a duly registered possessory information or by open, continuous, exclusive, and notorious possession, of the present or previous occupants.[3]

This petition seeks to reverse and set aside the December 3, 1999 decision[4] of the Court of Appeals in CA-G.R. CV No. 42761, which reversed and set aside the December 3, 1999

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[1] *Heirs of Macario Nagaño v. Court of Appeals*, 346 Phil. 724, 732 (1997), citing *Vital v. Anore*, 90 Phil. 855, 858 (1952); *Agne v. Director of Lands*, G.R. No. L-40399, 6 February 1990, 181 SCRA 793; *Mendoza v. Navarette*, G.R. No. 82531, 30 September 1992, 214 SCRA 337.

[2] Commonwealth Act No. 141, as amended.

[3] *Magistrado v. Esplana*, G.R. No. 54191, 8 May 1990, 185 SCRA 104, 109, citing *Concha v. Magtira*, 124 Phil. 961 (1966).

[4] Penned by Associate Justice Demetrio G. Demetria and concurred in by Associate Justices Ramon A. Barcelona and Mercedes Gozo-Dadole.

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decision[5] of the Regional Trial Court of Malolos, Bulacan, Branch 27 in Civil Case No. 7401-M.

The instant controversy involves a 574 square meter parcel of land known as Lot No. 2344, Cad-349,[6] located in Poblacion, Angat, Bulacan, which was formerly owned by the spouses Vicente Santiago and Magdalena Sanchez. The spouses had five children, among whom were Pablo and Marta. Pablo is the father of Simplicio Santiago and Guillermo Santiago; while Marta is the mother of Jose Santiago.[7]

On April 3, 1984, petitioners, the heirs of Simplicio Santiago, initiated a complaint[8] for *accion publiciana* with damages against Mariano Santiago, son of Jose Santiago.[9] They alleged that Lot 2344 was acquired by Simplicio by purchase from his father, Pablo, and brother, Guillermo.[10] When Simplicio retired from government service in 1968, he constructed a house on the said lot.[11] Before his demise on May 6, 1983, he applied for a free patent,[12] which was granted. Thus, on September 26, 1980, Original Certificate of Title No. P-10878 covering Lot 2344 was issued in his name.[13] Sometime in 1983, Mariano Santiago,

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[5] Penned by Judge Ibarra R. Vigilia.

[6] Exhibit "F", Tax Declaration No. 5930, for 1967, Records, p. 120; Exhibit "6-1", Certification dated April 14, 1975 of the Office of the Treasurer of the Municipality of Angat, Bulacan.

[7] TSN, 7 December 1984, pp. 6-9, 25-27, 31-32; 11 January 1985, p. 18.

[8] Records, p. 1.

[9] Previously, Mariano Santiago filed on July 21, 1983 a similar case for recovery of possession with damages against the petitioners but the case was dismissed without prejudice for failure to comply with the Barangay Conciliation requirement under P.D. No. 1508.

[10] TSN, 23 January 1985, pp. 82-83; Exhibit "C", *Kasulatan ng Bilihan ng Lupa*.

[11] TSN, 17 October 1984, pp. 22-23; 2 October 1984, pp. 37-38.

[12] Exhibit "1", Records, p. 103.

[13] Exhibit "A", Original Certificate of Title.

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through stealth and evident bad faith, constructed a house on a portion of Lot 2344 and refused to vacate the premises despite written and oral demands.[14]

At the trial, twenty-three-year old Nestor Santiago, one of the children of Simplicio Santiago, admitted that since he attained the age of reason, the house of Mariano Santiago was already existing in Lot No. 2344-C. His father allegedly advised Mariano to remove the house but the latter refused to do so.[15]

In his answer,[16] Mariano Santiago contended that Lot 2344 was subdivided into three portions, *i.e.*, Lot 2344-A, with an area of 168 square meters; Lot 2344-B, with an area of 349 square meters; and Lot 2344-C, with an area of 57 square meters.[17] Petitioners owned only Lot 2344-B, and Lots 2344-A and 2344-C, containing an area of 225 square meters, was fraudulently included in the free patent and certificate of title issued to Simplicio Santiago. Mariano testified that he and his sister, Belen S. Marcelo, purchased Lot 2344-A from Simplicio Santiago for the price of ₱5,000.00, as evidenced by a deed of sale dated September 15, 1972.[18] Immediately after the sale, they constructed a house on the lot.[19] Without their knowledge, however, Simplicio secured a free patent and an original certificate of title over the entire Lot 2344. On the other hand, he and his sister inherited Lot 2344-C from their grandmother, Marta Santiago, who in turn inherited the lot from her parents, Vicente and Magdalena. During her lifetime, Marta had been living in the house built on the said lot.[20] When Mariano was born in 1926, the house was still made of *nipa*, but it was

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[14] Complaint, Records, pp. 1-2.

[15] TSN, 31 October 1984, pp. 6-9.

[16] Records, p. 55.

[17] Exhibit "2", Subdivision Plan of Lot No. 2344, Records, p. 89.

[18] Exhibit "3", Records, p. 104.

[19] TSN, 7 December 1984, pp. 35-41.

[20] TSN, 7 December 1984, pp. 25-26 and 32.

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subsequently improved in 1931 and 1952 into a house of strong materials.[21]

Mariano's testimony was corroborated by seventy-year old Socorro Ocampo,[22] first cousin of Simplicio and Mariano's father, Jose, and by fifty-two-year old Flordeliza Austria,[23] a long-time neighbor of the parties. Both witnesses testified that since they were still children, the house of Marta where she and Mariano's family resided was already existing on Lot 2344-C.

On August 6, 1991, the trial court rendered a decision in favor of petitioners. It found that Mariano's claim over the controverted lot lacks basis and held that his defense constitutes a collateral attack on the validity of a Torrens title which was barred by prescription for having been raised more than one year after the entry of the decree of registration. The dispositive portion of the decision reads:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant:
>
> 1. Declaring the plaintiffs, children and heirs of the late Simplicio Santiago, the owners of the property covered by Original Certificate of Title No. P-10878 of the Registry of Deeds of Bulacan, which is registered in the name of Simplicio Santiago;
>
> 2. Ordering the defendant Mariano Santiago to remove and vacate the 57 square meter portion of the property covered by said title (O.C.T. No. P-10878) on which his house is established and surrender the possession thereof to the plaintiffs;
>
> 3. Dismissing/denying all claims and counterclaims for damages by the parties.
>
> No pronouncement as to costs.
>
> SO ORDERED.[24]

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[21] TSN, 7 December 1984, pp. 29-31.

[22] TSN, 11 January 1985, pp. 22-29.

[23] TSN, 14 December 1984, pp. 84-89.

[24] *Rollo*, p. 46. In its Order dated December 5, 1991, the trial court denied due course to respondents' notice of appeal and granted petitioners'

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Meanwhile, Mariano died on July 5, 1993 and was substituted by his heirs.[25]

Respondents appealed to the Court of Appeals which reversed the decision of the trial court on December 3, 1999. It sustained respondents' claim over Lots 2344-A and 2344-C and ruled that the Free Patent and the Original Certificate of Title issued in favor of Simplicio Santiago are void, because Lot 2344 is a private land which cannot be the subject of a Free Patent. The decretal portion thereof states:

WHEREFORE, premises considered, the decision dated August 6, 1991 is hereby REVERSED and SET ASIDE and in its stead another judgment is rendered in favor of the appellant and against the appellees as follows:

a. declaring the Free Patent Title under O.C.T. No. P-10878 (Exh. "A") null and void;

b. declaring the appellants the absolute owner of the 225 square meters of Lot 2344, designated as Lot 2344-A and 2344-C (Exhs. "2-A" & "2-B", respectively;

c. declaring the appellees the absolute owners of 349 square meters of Lot 2344, designated as Lot No. 2344-B (Exh. "2-C");

d. ordering the appellees to pay the costs.

SO ORDERED.[26]

Hence, the instant petition.

The main issues are: (1) whether or not the free patent and the certificate of title issued to Simplicio Santiago are valid;

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motion for execution (Records, p. 648). Respondents filed a petition for *certiorari* with the Court of Appeals (CA-G.R. SP No. 27241) which on November 26, 1992, issued an Order quashing the writ of execution and directing the trial court to give due course to respondents' notice of appeal (Records, p. 779).

[25] Resolution of the Court of Appeals dated January 18, 1994 (CA *Rollo*, p. 11).

[26] *Rollo*, p. 32.

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and (2) whether or not respondents' claim over Lots 2344-C and 2344-A is supported by the evidence.

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. Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain.[27]

In the instant case, it was established that Lot 2344 is a private property of the Santiago clan since time immemorial, and that they have declared the same for taxation.[28] Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, 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. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.[29]

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[27] *Magistrado v. Esplana, supra*, note 3.

[28] Exhibits "D"-"G", Declaration of Real Property, Records, pp. 118-122.

[29] *Director of Lands v. Court of Appeals*, 367 Phil. 597, 604 (1999), citing *Republic v. Court of Appeals*, 328 Phil. 239 (1996).

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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.[30]

Similarly in *Magistrado v. Esplana*,[31] the applicant for a free patent declared that the lots subject of the application formed part of the public domain for the sole purpose of obtaining title thereto as cheaply as possible. We annulled the titles granted to the applicant after finding that the lots were privately owned and continuously possessed by the applicant and his predecessors-in-interest since time immemorial. Likewise, in *Robles v. Court of Appeals*,[32] the free patent issued to the applicant was declared void because the lot involved was shown to be private land which petitioner inherited from his grandparents.

Respondents' claim of ownership over Lot 2344-C and Lot 2344-A is fully substantiated. Their open, continuous, exclusive, and notorious possession of Lot 2344-C in the concept of owners for more than seventy years supports their contention that the lot was inherited by Mariano from her grandmother Marta, who in turn inherited the lot from her parents. This fact was also corroborated by respondents' witnesses who declared that the house where Marta and Mariano's family resided was already existing in the disputed portion of Lot 2344 even when they were still children. It is worthy to note that although Lot

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[30] *Robles v. Court of Appeals*, 384 Phil. 635, 655 (2000); citing *Herico v. Dar*, G.R. No. L-23265, 28 January 1980, 95 SCRA 437; *Mesina v. Vda. de Sonza, et al.*, 108 Phil. 251, (1960); *Azarcon v. Vallarta*, G.R. No. L-43679, 28 October 1980, 100 SCRA 450; *Mendoza v. Navarette*, G.R. No. 82531, 30 September 1992, 214 SCRA 337; *Heirs of Marciano Nagaño v. Court of Appeals, supra*, note 1.

[31] *Supra*, note 3.

[32] *Supra*, note 31.

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2344-C was within the property declared for taxation by the late Simplicio Santiago, he did not disturb the possession of Marta and Mariano. Moreover, while the heirs of Simplicio tried to make it appear that Mariano built his house only in 1983, Nestor Santiago admitted on cross-examination that Mariano Santiago's house was already existing in the disputed lot since he attained the age of reason. The fact that Mariano did not declare Lot 2344-C for taxation does not militate against his title. As he explained, he was advised by the Municipal Assessor that his 57 square meter lot was tax exempt and that it was too small to be declared for taxation, hence, he just gave his share in the taxes to his uncle, Simplicio, in whose name the entire Lot 2344 was declared for taxation.[33]

The Court of Appeals correctly ruled that Lot 2344-C was sold by Simplicio Santiago to Mariano Santiago and Belen Sanchez. The document of sale evidencing the transaction is duly notarized and, as such, is considered a public document and enjoys the presumption of validity as to its authenticity and due execution. This legal presumption was not overcome by petitioners.[34] Other than their allegation that the deed of sale was a forgery,[35] no other evidence was presented to substantiate their claim. Hence, the presumption of validity of the deed of sale, ceding Lot 2344-C to Mariano Santiago and Belen Marcelo, prevails.

Furthermore, respondents' assertion of ownership is buttressed by their possession of Lot 2344-C. Immediately after the sale in 1972, Mariano Santiago and Belen Sanchez built a house on the said lot. The lack of opposition on the part of petitioners, indicates that they recognized the validity of the sale and it was only later that they thought of repudiating the authenticity thereof.

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[33] TSN, 14 December 1984, pp. 26-31.

[34] *Agasen v. Court of Appeals*, 382 Phil. 391, 399 (2000), citing *Sanchez v. Court of Appeals*, 345 Phil. 155 (1997); *Cacho v. Court of Appeals*, 336 Phil. 154 (1997).

[35] Reply to Answer with Counterclaim, Records, p. 73.

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Clearly, therefore, respondents are the lawful owners of Lot 2344-C and Lot 2344-A, which they co-own with Belen Marcelo. Free Patent No. 0130448 and OCT No. P-10878 are void not only because of the fraudulent inclusion therein of respondents' lots, but also because Lot 2344 is a private lot, over which the Bureau of Lands had no jurisdiction.

Petitioners contend that respondents' action to annul OCT No. P-10878 is barred by prescription and that, even assuming that it was filed within one year from the entry of the decree of registration, it constitutes a collateral attack on a Torrens title. Further, they averred that respondents have no personality to sue for the annulment of OCT No. P-10878.

The contentions are without merit.

A certificate of title issued under an administrative proceeding pursuant to a homestead patent covering a disposable public land within the contemplation of the Public Land Law or Commonwealth Act No. 141 is as indefeasible as a certificate of title issued under a judicial registration proceeding. Under the Land Registration Act, title to the property covered by a Torrens certificate becomes indefeasible after the expiration of one year from the entry of the decree of registration. Such decree of registration is incontrovertible and becomes binding on all persons whether or not they were notified of, or participated in, the *in rem* registration process. There is no specific provision in the Public Land Law or the Land Registration Act (Act 496), now Presidential Decree 1529, fixing a similar one-year period within which a public land patent can be considered open to review on the ground of actual fraud (such as that provided for in Section 38 of the Land Registration Act, and now Section 32 of Presidential Decree 1529), and clothing a public land patent certificate of title with indefeasibility. Nevertheless, this Court has repeatedly applied Section 32 of Presidential Decree 1529 to a patent issued by the Director of Lands, approved by the Secretary of Natural Resources, under the signature of the President of the Philippines. The date of the issuance of the patent corresponds to the date of the issuance of the decree in ordinary cases. Just as the decree finally awards the land applied

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for registration to the party entitled to it, the patent issued by the Director of Lands equally and finally grants and conveys the land applied for to the applicant.[36]

The one-year prescriptive period, however, does not apply when the person seeking annulment of title or reconveyance is in possession of the lot. This is because the action partakes of a suit to quiet title which is imprescriptible.[37] In *David v. Malay*,[38] we held that a person in actual possession of a piece of land under claim of ownership may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, and his undisturbed possession gives him the continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his title.

In the case at bar, inasmuch as respondents are in possession of the disputed portions of Lot 2344, their action to annul Original Certificate of Title No. P-10878, being in the nature of an action to quiet title, is therefore not barred by prescription.

Section 48 of P.D. 1529, the Property Registration Decree, provides that a certificate of title shall not be subject to collateral attack and can not be altered, modified, or canceled except in a direct proceeding. An action is an attack on a title when the object of the action is to nullify the title, and thus challenge the judgment or proceeding pursuant to which the title was decreed. The attack is direct when the object of an action is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in

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[36] *David v. Malay*, G.R. No. 132644, 19 November 1999, 318 SCRA 711, 718-719, citing *Trinidad v. Intermediate Appellate Court*, G.R. No. 65922, 3 December 1991, 204 SCRA 524; *Ybañez v. Intermediate Appellate Court*, G.R. No. 68291, 6 March 1991, 194 SCRA 743; *Sumail v. Judge of CFI of Cotabato, et al.*, 96 Phil. 946 (1955).

[37] *Mendoza v. Navarette*, G.R. No. 82531, 30 September 1992, 214 SCRA 337, 353, citing *Caragay-Layno v. Court of Appeals*, 218 Phil. 685 (1984).

[38] *Supra*, citing *Faja v. Court of Appeals*, G.R. No. L-45045, 28 February 1977, 75 SCRA 441.

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an action to obtain a different relief, an attack on the judgment or proceeding is nevertheless made as an incident thereof.[39]

In this case, while the original complaint filed by the petitioners was for recovery of possession, or *accion publiciana*, and the nullity of the title was raised merely as respondents' defense, we can rule on the validity of the free patent and OCT No. P-10878 because of the counterclaim filed by respondents. A counterclaim can be considered a direct attack on the title. In *Development Bank of the Philippines v. Court of Appeals*,[40] we ruled on the validity of a certificate of title despite the fact that the nullity thereof was raised only as a counterclaim. It was held that a counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff. It stands on the same footing and is to be tested by the same rules as if it were an independent action. Moreover, since all the facts necessary in the determination of the title's validity are now before the Court, it would be in the best interest of justice to settle this issue which has already dragged on for 19 years.[41]

There is no merit in petitioners' contention that only the State may bring an action for reconveyance of the lots in dispute. To reiterate, Lot 2344 is a private property in open, continuous, exclusive and notorious possession of the Santiago family. The nullification of its free patent and title would not therefore result in its reversion to the public domain. Hence, the State, represented by the Solicitor General, is not the real party-in-interest. Parenthetically, in *Robles v. Court of Appeals*,[42] a case involving the personality to sue for the reconveyance of a private

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[39] *Mallilin, Jr. v. Castillo*, G.R. No. 136803, 16 June 2000, 333 SCRA 628, citing *Co v. Court of Appeals*, 274 Phil. 108 (1991).

[40] G.R. No. 129471, 28 April 2000, 331 SCRA 267, 287, citing *A. Francisco Realty and Development Corp. v. Court of Appeals*, 358 Phil. 833 (1998).

[41] *Id.*, citing *Mendoza v. Court of Appeals*, G.R. No. L-62089, 9 March 1988, 158 SCRA 508.

[42] *Supra*, note 31.

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land, we ruled that inasmuch as there was no reversion of the disputed property to the public domain, the State is not the proper party to bring a suit for reconveyance.

It should be clarified, however, that notwithstanding the Court's declaration that Lot No. 2344 is a private property and not a part of the public domain, the parties' title to the said lot is imperfect and is still subject to the rules on confirmation of title under Section 48 (b) of the Public Land Act. Nevertheless, this imperfect title is enough to defeat the free patent and certificate of title issued over the said lot. Hence, the ruling of the Court of Appeals declaring the respondents as the *absolute owners* of Lot Nos. 2344-A and C; and declaring petitioners as *absolute owners* of Lot No. 2344-B, should be modified.

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals in CA-G.R. CV No. 42761 is *AFFIRMED* with *MODIFICATION*. Patent No. 0130448 and Original Certificate of Title No. P-10878, both in the name of Simplicio Santiago are declared null and void. Respondent Heirs of Mariano Santiago are declared owners and holders of imperfect title over Lot No. 2344-A and Lot No. 2344-C; while petitioner Heirs of Simplicio Santiago are declared owners and holders of imperfect title over Lot No. 2344-B. Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, Carpio, and *Azcuna, JJ.*, concur.