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SECOND DIVISION

[G.R. No. 215454. August 9, 2017]

HEIRS OF SPOUSES CORAZON P. DE GUZMAN and FORTUNATO DE GUZMAN, represented by JENIE JANE DE GUZMAN-CARPIO, *petitioners, vs.* **HEIRS OF MARCELIANO BANDONG, represented by REGINA Z. BANDONG,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; RULE 45 PETITION RESOLVES ONLY QUESTIONS OF LAW; BY WAY OF EXCEPTION, THE COURT RESOLVES FACTUAL ISSUES IN VIEW OF THE DIFFERING FINDINGS OF THE TRIAL COURT AND THE COURT OF APPEALS.— [T]his Court notes that resolving the contentions raised would necessarily require the re-evaluation of the parties' submissions and the CA's factual findings. This course of action is ordinarily proscribed in a petition for review on *certiorari*, *i.e.*, a Rule 45 petition resolves only questions of law. By way of exception, however, the Court resolves factual issues when the findings of the RTC differ from those of the CA, as in the case at bar.

2. CIVIL LAW; LAND REGISTRATION; THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) HAS NO AUTHORITY TO GRANT FREE PATENT FOR LAND THAT HAS CEASED TO BE PUBLIC LAND AND HAS PASSED TO PRIVATE OWNERSHIP.— Suffice it to state that the Spouses De Guzman have sufficiently established their title over the disputed portion of the *Real* property before the issuance of free patent and title in favor of the Spouses Bandong. The 1984 Deed in their favor, the 1960 Deed disputing the Spouses Bandong's claim of the entire subject property, and their actual possession demonstrate that the Spouses De Guzman held the disputed portion as their private property. As such, the DENR had no authority to grant to the Spouses Bandong the free patent for the whole *Real* property since a portion of which has ceased to be a public land and has passed to the private ownership of the Spouses De Guzman.

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3. ID.; PRESCRIPTION; ACQUISITIVE PRESCRIPTION, EXPLAINED; RESPONDENTS HAVE ACQUIRED BY ORDINARY ACQUISITIVE PRESCRIPTION THE AREA IN EXCESS OF THE PORTION PURCHASED BY THEIR PREDECESSOR.— Other names for acquisitive prescription are adverse possession and *usucapcion*. Ordinary acquisitive prescription requires possession of things in good faith and with just title for a period of ten years, while extraordinary acquisitive prescription requires uninterrupted adverse possession of thirty years, without need of title or of good faith. Possession is in good faith when there is a reasonable belief that the person from whom the thing is received has been the owner thereof and could thereby transmit his ownership. There is just title when the adverse claimant comes into possession of the property through any of the modes recognized by law for the acquisition of ownership or other real rights, but the grantor is neither the owner nor in a position to transmit the right. x x x The RTC ascertained that the Spouses Bandong are in actual possession of at least 1,119 sq. m. of the property since 1979. Aside from the 1960 Deed, the Spouses De Guzman did not present any evidence of the Spouses Bandong's bad faith or knowledge of the discrepancy in the area of the property originally conveyed to their father and of the property eventually sold to them. Since they occupied the portion since 1979, the Spouses Bandong have acquired by ordinary acquisitive prescription the area in excess of the 660 sq. m. purchased by Emilio, or more or less the area transferred by Pedro. It is also noted that it was the Spouses De Guzman who constructed the fence made of barb wire to delineate their boundaries in 1984.

4. ID.; LAND REGISTRATION; REGISTRATION OF A PATENT UNDER THE TORRENS SYSTEM MERELY CONFIRMS THE REGISTRANT'S TITLE.— It is emphasized that the registration of a patent under the Torrens System merely confirms the registrant's title. It does not vest title where there is none because registration under this system is not a mode of acquiring ownership. The registration of the Spouses Bandong's free patent over the *Real* property did not vest them the ownership thereof. The Spouses De Guzman successfully ascertained their prior title, as well as the Spouses Bandong's title based on their predecessors' interest, which both corresponded with the area they actually occupied.

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APPEARANCES OF COUNSEL

S. P. Madrid & Associates for petitioners.
The Law Firm of AC Estrada & Associates for respondents.

D E C I S I O N

PERALTA, *J.*:

For resolution of this Court is the petition for review on *certiorari* filed by the Heirs of Spouses Corazon P. De Guzman and Fortunato De Guzman (*petitioners*), represented by their duly-authorized representative, Jenie Jane De Guzman-Carpio, assailing the Decision[1] and Resolution,[2] dated August 20, 2014 and November 20, 2014, respectively, of the Court of Appeals (*CA*), which reversed the Decision[3] of the Regional Trial Court (*RTC*) of San Carlos City, Pangasinan, Branch 57.

The instant case stemmed from a Complaint[4] filed by the Spouses Corazon De Guzman (*Corazon*) and Fortunato De Guzman (*Spouses De Guzman*) against the Spouses Marceliano Bandong (*Marceliano*) and Regina Zamora (*Spouses Bandong*), seeking nullity of title and free patent with damages.

Domingo Calzada (*Domingo*) was the owner of a parcel of unregistered land located in Barrio Angatel (now Barangay Real), Urbiztondo, Pangasinan, with an area of 3,018 square meters (*sq. m.*) (*Real property*). Through a Deed of Absolute Sale of Unregistered Land dated March 17, 1960 (*1960 Deed*),[5] Domingo sold a 660 sq. m. portion of the property in favor of Emilio Bandong (*Emilio*) who then allegedly donated the same to his son Pedro Bandong (*Pedro*). Subsequently, by way of a Deed

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[1] Penned by Associate Justice Pedro B. Corales, with Associate Justices Sesinando E. Villon and Victoria Isabel A. Paredes, concurring; *rollo*, pp. 267-279.

[2] *Id.* at 307-310.

[3] Penned by Presiding Judge Renato D. Pinlac; *id.* at 167-175.

[4] Records pp. 1-12.

[5] *Id.* at 17.

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of Absolute Sale dated May 17, 1979 (*1979 Deed*),[6] instead of selling only the 660 sq. m. portion, Pedro sold a 1,320 sq. m. portion of the subject property to his brother Marceliano.

On July 10, 1961, Domingo died intestate. Thereafter, his heirs executed an Extrajudicial Settlement of Estate and Deed of Absolute Sale dated August 29, 1984 (*1984 Deed*)[7] conveying the supposedly remaining 2,358 sq. m. of the *Real* property to the Spouses De Guzman.

In the cadastral survey of the entire Urbiztondo, Pangasinan on January 22, 1992, the portions claimed by the Spouses Bandong and the Spouses De Guzman were designated as Lot Nos. 3011 and 3015, respectively.[8]

On August 3, 1999, Marceliano applied for a free patent before the Department of Environment and Natural Resources — Community Environment and Natural Resources (*DENR-CENRO*) of the Region 1, Dagupan City, alleging, among others: that the *Real* property designated as Lot No. 3011, Cad. 31-A has an area of 3,221 sq. m.; that it was a public land not claimed or occupied by any other person; that it was entered upon, cultivated and occupied sometime in 1940 by Pedro and his wife, Lourdes Viray; that he entered upon and began cultivation of the land on May 17, 1979; and that since that date, he had continuously cultivated and introduced improvements thereon. Marceliano also attached the 1979 Deed and tax declaration as evidence of acquisition and ownership of the Real property.[9] Subsequently, the application was granted, and the Original Certificate of Title (*OCT*) No. P-41536 was issued and registered under the Spouses Bandong's name on October 25, 1999.[10]

Sometime in 2001, Corazon learned from a certain Mariano Tapiador, the caretaker of the Spouses Bandong's property,

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[6] *Id.* at 16.

[7] *Id.* at 14.

[8] *Id.* at 19 (including the dorsal portion).

[9] *Rollo* p. 219, Application for Free Patent 015545-315.

[10] *Id.* at 198.

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about Marceliano's intention to sell the *Real* property, which included the 2,358 sq. m. portion of their property.

On January 2, 2002, the Spouses De Guzman filed a protest before the DENR-CENRO alleging that they own a portion of the land that was registered under the Spouses Bandong's name, and prayed for the issuance of a recommendation to the Office of the Solicitor General for the cancellation of the title. However, the DENR denied the protest on the ground of lack of jurisdiction. The *fallo* of the DENR's decision reads:

> WHEREFORE premises considered, it is hereby ordered that the case be dismissed for lack of jurisdiction. The PROTESTANT is advised to seek relief from the regular courts for the cancellation of the title, recovery of possession and partition of the subject area.
>
> SO ORDERED.[11]

The Spouses De Guzman sought the services of Geodetic Engineer Leonardo V. De Vera (*De Vera*) to determine the extent of the alleged encroachment. De Vera evaluated the V-37 of Cad. Lot No. 3011, Cad. 31-A, Module 11, Urbiztondo, sketch of survey notification card prior to the cadastral survey and other pertinent documents, made ocular inspection and relocation survey of the premises, and made the conclusion in his letter, *viz.*:

> x x x I also located the corresponding public land monument and the following are the findings I found, to wit:
>
> Mon. No. 1 located at the Northern side of the property which is within the [alleged] [o]riginal property of [Marceliano] Bandong on the Northeastern side;
>
> Mon. No. 2 located at Northeastern corner of the property and within the [a]lleged original property and bounded on the Provincial Road;
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> Mon. No. 3 located at Southeastern corner of the property and within your [a]lleged original property and bounded on the Provincial Road;

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[11] Records, p. 33.

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> Mon. No. 4 located at Southwestern corner of the property and within the alleged [o]riginal property of Marceliano Bandong and bounded on a creek; and
>
> Mon. No. 5 located at Northwestern corner of the property and within the allege[d] [o]riginal property of [Marceliano] Bandong and bounded on a creek.

On the basis of the foregoing method of evaluation and validation, it is **my conclusion that the property identified and covered by Tax Declaration No. 1435 and identified under Property Index No. 013-43-0002 is within and/or inside Cad. Lot No. 3011 (Eastern side).** Said property is now identical as Lot No. 3011-B as per prepared sketch plan under the ownership of Sps. Fortunato/Corazon de Guzman. That the **property has been effectively encroached and overlapped by the [title] applied by [Marceliano] Bandong which is now covered by Orihinal na Titulo Blg. P-41536** in the name of the latter.

Per existing natural boundaries, and records of ownership like Tax Declarations, survey notification cards, and actual possession and material occupation, the property show that ended there was (*sic*) two (2) lots exist (sic) prior to the conduct of the Cadastral Survey. x x x[12]

Thereafter, the Spouses De Guzman filed the Complaint dated October 25, 2003 before the RTC of San Carlos City, Pangasinan, Branch 57. They asseverated that the Spouses Bandong committed fraud and misrepresentation when they claimed in their application for free patent that they occupied and cultivated the Real property since 1979 or prior thereto, and that the land was not claimed by any other persons. The Spouses De Guzman alleged that they are the owners of the eastern portion of the property as evinced by the 1984 Deed in their favor, and that they were not aware of the consolidation of the entire *Real* property and its registration under the Spouses Bandong's name.

In their Answer, the Spouses Bandong asserted their ownership of the whole Lot No. 3011 (*Real* property), including the eastern portion claimed by the Spouses De Guzman. The OCT in their favor was issued and registered following the procedure prescribed

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[12] *Rollo*, pp. 206-207. (Emphases supplied).

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by law for the issuance of free patent and certificate of title. They invoked the doctrine of prescription because four (4) years had already lapsed from the time of the issuance of the OCT.

After weighing the evidence of both sides, the RTC ruled in favor of petitioners in its April 17, 2012 Decision. A pertinent portion of the decision reads:

> x x x [T]he [petitioners'] lot lies between the Road and the lot of the [respondents]. This is depicted in the Survey Notification Card marked as Exhibit "G-2," dorsal portion (p. 19). This explains why Lot No. 3011 was subdivided into two portions delineating them with natural boundaries like trees and also barbwire and stone monuments. It was, therefore, an error for the Cadastral Survey contractor to have merged both properties into one lot. Furthermore, there being no satisfactory explanation as to why the area of the [respondents'] lot grew bigger, the Court cannot but deduce that it encroached upon the [petitioners'] lot. x x x The error in the Cadastral Survey which increased the area belonging to the [respondents] was taken advantage of by the latter, in that they caused the revision of their tax declaration to include therein the mistakenly added portion belonging to the [petitioners]. On the basis of the revised tax declaration, [respondents] applied for free patent covering Lot No. 3011 which the DENR eventually approved and on the basis of which OCT No. P-41536 was issued in their favor. x x x.[13]
>
> x x x x x x x x x
>
> WHEREFORE, in light of the above disquisitions, the Court hereby directs the [Register] of Deeds of Pangasinan to cancel the Katibayan ng Orihinal na Titulo Blg. P-41536 and to issue two (2) separate titles covering Lot No. 3011 Cad. 31-A, Urbiztondo, Pangasinan in accordance with the tenor of this decision, to wit:
>
> a.) To the plaintiffs Spouses Corazon de Guzman and Fortunato de Guzman, the eastern portion covering the 2,102 square meters; and
>
> b.) To the defendants Spouses Marceliano Bandong and Regina Zamora, the western portion covering the 1,119 square meters.
>
> upon payment of lawful fees therefor (*sic*).

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[13] *Id.* at 172-173.

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The private defendants are hereby directed to pay Thirty Thousand ([₱]30,000.00) pesos as moral damages and Thirty-Five Thousand ([₱]35,000.00) pesos as litigation expenses, plus cost of this suit.

SO ORDERED.[14]

On appeal, the CA reversed and set aside the decision of the RTC. The CA did not find any clear and convincing evidence for the cancellation of the Spouses Bandong's free patent. The Spouses De Guzman's mere possession cannot overcome the Spouses Bandong's ownership by virtue of the notarized 1979 Deed, which enjoys the presumption of regularity and may be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to falsity.[15] It ruled that there is no substantial decrease in the Spouses De Guzman's land area considering that the 2,330 sq. m. lot designated as Lot No. 3015 and now covered by OCT No. P-46416 has almost the same area- 2,358 sq. m. as described in the 1984 Deed. The *fallo* of the decision states:

WHEREFORE, the instant appeal is hereby GRANTED. The April 17, 2012 Decision of the Regional Trial Court, Branch 57, San Carlos City, Pangasinan in Civil Case No. SCC-2767 is REVERSED and SET ASIDE. Spouses Corazon and Fortunato de Guzman's complaint for declaration of nullity of title and free patent with damages is DISMISSED for lack of cause of action.

SO ORDERED.[16]

Upon denial of their motion for reconsideration, petitioners filed before this Court the instant petition raising the following errors:

a. It is respectfully submitted that this Honorable Court of Appeals committed irreversible error when it declared, ". . . Thus the plaintiff, in this case Spouses De Guzman, has the burden of proving by clear and convincing evidence the fact of fraud committed by Spouses Bandong and their pre-existing title to the disputed land."

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[14] *Id.* at 174-175.

[15] *Id*. at 278.

[16] *Id.* at 279.

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b. It is our humble submission that the Honorable Court of Appeals committed irreversible error when it declared, "Contrary to the findings of the RTC, this Court did not find any clear and convincing evidence for the cancellation of Spouses Bandong's free patent. Spouses De Guzman claimed that Spouses Bandong committed fraud in their application for free patent because their land area increased from 1,320 sq. m., as stated in the 1979 Deed of [S]ale, to 3,221 sq. m. after the 1992 cadastral survey. However, Spouses De Guzman failed to prove that such increase was brought by the wrongful inclusion of a portion of their land in Spouses Bandong's application for free patent."

c. It is our humble submission that the Honorable Court of Appeals committed irreversible error when it declared, ". . . Spouses De Guzman claimed that the 1992 cadastral survey was erroneous as to Spouses Bandong's lot but they still used the same as basis of their application for free patent. This Court cannot permit Spouses De Guzman to get the best of both worlds at the expense of Spouses Bandong. 'They cannot have their cake and eat it too,' so to speak."

d. We respectfully submit herein that this Honorable Court of Appeals committed irreversible error when it declared, "The RTC conveniently ignored the existence of Spouses De Guzman's OCT No. P-46416 and relied heavily on the 1984 Deed of Sale in ruling that plaintiffs-appellees' land was erroneously included in Spouses Bandong's Lot No. 3011. However, we take note of the fact that the 2,330-sq.m. lot designated as Lot No. 3015 and now covered by OCT No. P-46416 has almost the same area, 2,358 sq. m., as described in the 1984 Deed of Sale. There is no substantial decrease in Spouses De Guzman's land area to warrant a conclusion that they had been prejudiced by the increase in size of Spouses Bandong's lot."

e. We respectfully submit herein that this Honorable Court of Appeals committed irreversible error when it declared, "Thus, the boundaries explicitly mentioned in the 1979 Deed of Sale would be controlling rather than the 1,320 sq. m. area stated therein. Clearly, the increase in the area of Spouses Bandong's Lot No. 3011 was brought by the accurate plotting of the boundaries of their land and not due to the alleged encroachment.

f. We respectfully submit that this Honorable Court of Appeals committed a reversible error when it declared, "Besides,

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> Spouses De Guzman's mere possession cannot overcome Spouses Bandong's ownership of the subject land by virtue of the 1979 Deed of Sale which, being a public document, carries evidentiary weight conferred upon it with respect to its due execution. The notarized deed of sale enjoys the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to falsity. Unfortunately, Spouses De Guzman failed to overcome this presumption of due execution, thus, this Court would give full faith and credence to the 1979 Deed of Sale and the boundaries stated therein identifying Spouses Bandong's land."

The instant petition is impressed with merit.

Essentially, petitioners maintain that they have established through clear and convincing evidence that the Spouses Bandong committed fraud in their application for free patent which eventually led for the same and the OCT to be issued in their favor. They allege that the Spouses Bandong have no pre-existing title to the disputed portion, considering that the property conveyed to Marceliano's father Emilio was originally 660 sq. m. only. In turn, the Spouses De Guzman insist that they have prior title over the disputed portion by virtue of the 1984 Deed, their actual possession, and the payment of taxes before the Spouses Bandong's application for free patent.

To begin with, this Court notes that resolving the contentions raised would necessarily require the re-evaluation of the parties' submissions and the CA's factual findings. This course of action is ordinarily proscribed in a petition for review on *certiorari*, *i.e.*, a Rule 45 petition resolves only questions of law. By way of exception, however, the Court resolves factual issues when the findings of the RTC differ from those of the CA, as in the case at bar.[17]

A cause of action for declaration of nullity of free patent and certificate of title would require the allegations of the plaintiff's ownership of the contested lot prior to the issuance

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[17] *Nenita Quality Foods Corp. v. Galabo, et al.*, 702 Phil. 506, 515 (2013).

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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*.[18] By asking for the nullification of the free patent granted to the Spouses Bandong, the Spouses De Guzman are claiming the portion of the subject property which, they allege, rightfully belongs to them.

It was held that 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.[19] We ruled in *De la Concha, et al. v. Magtira*:[20]

> Private ownership of land (as when there is a *prima facie* proof of ownership like a duly registered possessory information) 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 to another a free patent for land that has ceased to be a public land and has 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.[21]

In his free patent application, Marceliano declared under oath, among others, that the *Real* property with a 3,221 sq. m. area was a public land not claimed or occupied by any other person; that it was entered upon, cultivated and occupied sometime in 1940 by Pedro and his wife Lourdes Viray; and that he entered upon and continuously cultivated and introduced improvements

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[18] *Heirs of Kionisala v. Heirs of Dacut,* 428 Phil. 249, 260 (2002).

[19] *Agne v. Director of Lands*, 261 Phil. 13, 30 (1990).

[20] 124 Phil. 961 (1966).

[21] *De la Concha, et al. v. Magtira, supra,* at 964-965.

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since May 17, 1979. Marceliano alleged that it was a common practice by their ancestors to declare a smaller area to evade payment of higher taxes.[22] In his testimony, Marceliano explicated:

ATTY. APILADO:

Q And who owns that house in Barangay Real[,] Urbiztondo, Pangasinan?
A My parents, ma'am.

Q Do you know how your parents acquired that property where your house (*sic*) built your house particularly in that piece of land where your house is situated?
A I don't know, ma'am.

x x x x x x x x x

Q Aside from the house[,] do you know if your parents introduce any other improvement in that piece of land?
A Yes, ma'am.

Q What are these improvements, Mr. Witness?
A Fruit bearing trees, ma'am.

x x x x x x x x x[23]

Q You said that you are the registered owner of that piece of land, what is the actual land area of your lot?
A 3,221 square meters, ma'am.

Q How did you become the registered owner of that piece of land, Mr. Bandong?
A I bought it from my brother and sister, ma'am.

Q What is the name of your brother and sister?
A Pedro Bandong and Lourdes Viray-Bandong, ma'am.

Q **You bought it from Pedro Bandong and Lourdes Viray-Bandong, how did Pedro Bandong and Lourdes Viray-Bandong acquired that property if you know?**

A **My parents offered it as a dowry to my [sister-in-law] Lourdes Viray Bandong, ma'am.**

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[22] *Rollo* p. 171.

[23] TSN, September 7, 2010, pp. 4-5.

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x x x x x x x x x[24]

ATTY. MADRID:

Q Good morning, Mr. Bandong you have presented the Deed of Absolute Sale dated May 17, 1979 and as shown from that document, your area was only 1,320 square meters and your title that you applied for has now carries the area of =P=3,221 (*sic*) square meters. My question to you is; have you evaluated from the adjoining lot as to where these extra/ excess 1,901 square meters come from?

A The 1,320 square meters is [incorrect] because that is only an estimate just for taxation purposes, sir.

Q Why did you say that just for taxation purposes, how is the taxation purposes related with the area declared which is only 1,320 square meters?

A Sir, it is commonly practice by our ancestors that will be declared . . . (unfinished).

x x x x x x x x x[25]

Undisputed is the fact that Domingo originally owned the 3,018 sq. m. *Real* property. Both parties are claiming to have derived their supposed rights and interests over the property by purchase. As the property was unregistered when it was sold, it is necessary for this Court to examine the contracts of sale which purportedly transferred the ownership to the parties to resolve their respective claims.

Based on the records, the 1960 Deed executed by Domingo in favor of Emilio described the purchased property as follows:

x x x that portion of land (Residential), with an area of **SIX HUNDRED and SIXTY (660) square meters, more or less, of the whole parcel of land** situated in the barrio Angatel, Urbiztondo, Pangasinan, and which in **whole portion is more particularly bounded** and described as follows:

A parcel of residential land situated in the barrio Angatel, Urbiz., Pangasinan, under Tax Declaration No. 1517; assessed

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[24] *Id.* at 6.

[25] *Id*. at 12. (Emphasis ours)

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> at One Hundred Fifty ([₱]150.00), c.s., **containing an area of THREE THOUSAND EIGHTEEN (3,018)**, square meters, more or less. Bounded on the North by Esteban Calzada; on the East by Juan B. Palisoc; on the South by the Road to Bayambang; and on the West by Consolacion. Its visible boundary limits are Canito trunks growing on all of its boundary limits. That this parcel of land is not registered under Act No. 496 nor under the Spanish Mortgage Law.[26]

However, instead of transferring the 660 sq. m. property he received from Emilio, Pedro transferred 1,320 sq. m. of the *Real* property to Marceliano. In the said transfer, there was a glaring increase in the area and the boundaries were modified. The property was described in the 1979 Deed as follows:

> A parcel of Banana and Residential Land situated at Real, Urbiztondo, Pangasinan, containing an area of ONE THOUSAND THREE HUNDRED TWENTY (1,320) square meters, more or less. Bounded on the North by Esteban Calzada and Juan B. Palisoc; on the East by Road to Bayambang; on the South by Juan B. Palisoc and on the West by Rio punit. Declared under Tax Declaration No. 13525 (current) and assessed at [₱]840.00. Limits are indicated by wooden posts drilled in the corners, said land is not yet registered under Act 496 nor under the Spanish Mortgage Law; Free from all [liens], charges, and encumbrances.[27]

On the other hand, the 1984 Deed, in favor of the Spouses De Guzman, described the 2,358-sq.-m. property as:

> A parcel of land containing an area of 2358 sq. m. more or less, declared under TD No. 672 and assessed at [₱]1,340.00 c.s. Bounded on the North by Fortunato de Guzman; on the East by Road to Bayambang; on the South by Juan Palisoc and on the West by Marceliano Bandong.[28]

Despite the fact that the 1960 Deed never specified the boundaries marking and segregating the property from Domingo's

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[26] Records p. 17 (Emphasis supplied).

[27] *Id.* at 16.

[28] *Id.* at 14.

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land and instead mentioned the boundaries of the whole property, it is apparent from the language of the contract that Domingo, who is the original owner, intended to transmit only 660 sq. m. of his 3,018-sq.m. land to Emilio. A public document, like the 1960 Deed, is regarded as evidence of the facts therein expressed in a clear, unequivocal manner, and enjoys a presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to falsity.[29]

The 1979 Deed, also a public document, indicated boundaries of the 1,320 sq. m. property coinciding with the 3,221 sq. m. area of the property in the cadastral survey plan. It is noted that Marceliano admitted that his parents previously owned the property and transferred the same to Pedro as a dowry. As Pedro's title emanated from his father's, evidence of subsequent conveyance would have justified the allegation of ownership of the entire subject property, considering that the property was still unregistered at that time. However, records are bereft of evidence of subsequent sale of the remaining portion of the *Real* property in favor of Emilio or Pedro between 1960 and 1979, either by Domingo or his heirs when Domingo died in 1961. In light of the Spouses Bandong's failure to rebut the fact presented by the 1960 Deed that a mere 660 sq. m. portion was transferred to Marceliano's father, the 1979 Deed alone cannot support the claim of ownership of the entire *Real* property.

Aside from the deed of sale in their favor, the Spouses De Guzman ascertained their ownership through their possession of the disputed portion since 1984. Corazon testified:

ATTY. MAGDAMIT:

x x x x x x x x x

Q Will you kindly tell us how did you acquire this property?
A We bought this property from the heirs of Domingo Calzada, sir.

Q Do you have proof of that?
A Yes, sir.

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[29] *Dela Peña v. Avila,* 681 Phil. 553, 567 (2012).

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Q What is your proof?
A The Extra-Judicial Settlement of Estate, sir.

x x x x x x x x x

Q Now, since when have you been in possession of that property identified as 3011-B?
A Since we purchased that sir that was sometime on August 29, 1984.

Q Would you know when Marceliano Bandong acquired that property identify (*sic*) as 3011-B?
A They purchased that to his brother Pedro Bandong and his wife that was May 17, 1979, sir.

x x x x x x x x x

Q Now, when you bought that in 1984[,] how did you separate or what separated that property of Marceliano Bandong which is #3011-A and your property which is #3011-B?
A The boundaries, sir.

Q What separate the boundary?
A The barb wire with Madre Cacao, sir.

Q Who constructed that barb wire that separated the B portion from A portion?
A We are the one, sir.

Q That was in 1984, sir (*sic*).
A Yes sir, I have a picture which was taken sometimes (*sic*) during our relocation that was in May 28 when we constructed that.

x x x x x x x x x[30]

Geodetic Engineer De Vera's testimony corroborated with the Spouses De Guzman's averment that the parties actually occupied different portions of the *Real* property. De Vera reiterated his findings before the trial court, *viz.*:

ATTY. MADRID

Q What was the objective in going to the ground and in surveying the property?

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[30] TSN, December 5, 2005, pp. 4-6.

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A As per requested by Mrs. De Guzman to survey and to know the extent of her property, sir.

Q Were you able to go there?
A Yes, sir.

Q What happened after you conducted your survey?
A I found out that there is a barb wire separating of the two (2) lots, sir.

x x x x x x x x x[31]

Q How were you able to verify Mr. Witness the property occupied by De Guzman?
A At first sir, I refer to the Technical Description on the V-37 from the DENR and then on the relocation I found out that De Guzman and Bandong have only one lot number and that is lot #3011 then I measured the boundary and I found out that from the ground there is the distance, sir.

Q And you indicated in the plan what is the area occupied by De Guzman which is identified as Exhibit "F-1"?
A 2,102.57 square meters, sir.

Q What about the area occupied by Bandong?
A 1,119 square meters, sir.

Q **How did you know the boundary or fence, kindly describe it to us?**
A **There is a barb wire in between separating the two (2) lots and the trees planted along the boundary line, sir.**

x x x x x x x x x[32]

Q And because of what you saw the V-37 Technical Description and the Technical Description on the title and base on the ocular inspection you saw the two (2) occupants on the same area that is why you platted the demarcation line or the division line between them?
A Yes, sir.

Q **Now, when you said "encroaching" can you just explain to us how did the encroachment happen committed by defendant Bandong?**

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[31] TSN, August 10, 2006, p. 9.

[32] *Id.* at 11-12.

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A **To tell you sir, this corner had a monument and that corner and even there is a barb wire segregating the two (2) parcels of land.**

x x x x x x x x x[33]

The Spouses Bandong submitted the amended tax declaration as evidence of ownership in their free patent application. It was only in 1999 or just before the application that Marceliano caused the revision of the tax declaration over the 3,221-sq.m. *Real* property or seven (7) years since the 1992 cadastral survey.[34] Tax declarations and receipts are not conclusive evidence of ownership, yet, when coupled with proof of actual possession, they are strong evidence of ownership.[35] Here, the revised tax declaration for the 3,220 sq. m. property cannot be considered as a strong evidence of the Spouses Bandong's ownership since they failed to establish their actual possession of the disputed portion.

Suffice it to state that the Spouses De Guzman have sufficiently established their title over the disputed portion of the *Real* property before the issuance of free patent and title in favor of the Spouses Bandong. The 1984 Deed in their favor, the 1960 Deed disputing the Spouses Bandong's claim of the entire subject property, and their actual possession demonstrate that the Spouses De Guzman held the disputed portion as their private property. As such, the DENR had no authority to grant to the Spouses Bandong the free patent for the whole *Real* property since a portion of which has ceased to be a public land and has passed to the private ownership of the Spouses De Guzman.

Moreover, the trial court found that the Spouses De Guzman actually possessed the eastern portion, while the Spouses Bandong possessed the western portion based on the result of the ocular inspection conducted on October 11, 2010.[36] Although it observed that the areas actually possessed by the parties did not correspond

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[33] *Id.* at 18-19. (Emphases ours)

[34] *Rollo* p. 221 (including dorsal portion).

[35] *Dr. Gesmundo v. Court of Appeals,* 378 Phil. 1099, 1108 (1999).

[36] Records p. 329.

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to those mentioned in their deeds and tax declarations, the RTC did not disturb each party's landholding, thus:

> x x x As established during the ocular inspection made, the [petitioners] possess the eastern portion measuring 2,102 square meters and the [respondents], the western part which is of 1,119 square meters. While the Court notes that the area actually possessed by each party is not exactly equal to those stated in their deeds of acquisition and tax declarations, it, however, finds no basis to disturb or alter each party's landholding cognizant of the principle that their respective period of possession tucked with those of their predecessors-in-interest, has ripened into title or ownership of the area they so possess.[37]

Article 1106, in relation to Article 712,[38] of the New Civil Code provides that:

> Article 1106. By prescription, one acquires ownership and other real rights through the lapse of time in the manner and under the conditions laid down by law.
>
> In the same way, rights and actions are lost by prescription.

Other names for acquisitive prescription are adverse possession and *usucapcion*. Ordinary acquisitive prescription requires possession of things in good faith and with just title for a period of ten years, while extraordinary acquisitive prescription requires uninterrupted adverse possession of thirty years, without need of title or of good faith.[39] Possession is in good faith when there is a reasonable belief that the person from whom the thing is received has been the owner thereof and could thereby transmit his ownership.[40] There is just title when the adverse claimant comes into possession of the property through any of the modes

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[37] *Rollo* p. 174.

[38] Article 712. Ownership is acquired by occupation and by intellectual creation.

Ownership and other real rights over property are acquired and transmitted by law, by donation, by testate and intestate succession, and in consequence of certain contracts, by tradition.

They may also be acquired by means of prescription. (Emphasis ours)

[39] *Virtucio v. Alegarbes,* 693 Phil. 567, 575 (2012).

[40] Article 1127, New Civil Code.

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recognized by law for the acquisition of ownership or other real rights, but the grantor is neither the owner nor in a position to transmit the right.[41]

It was clarified in the *Heirs of Mario Malabanan v. Republic of the Philippines*,[42] that only lands of the public domain subsequently classified or declared as no longer intended for public use or for the development of national wealth, or removed from the sphere of public dominion and are considered converted into patrimonial lands or lands of private ownership, may be alienated or disposed through any of the modes of acquiring ownership under the Civil Code.[43]

The DENR, in its denial of the Spouses De Guzman's protest, found that the 2,358 sq. m. portion claimed by the Spouses De Guzman has long acquired the nature of a private property. A portion of the DENR's decision reads:

> It appears from the record that Two thousand three hundred fifty eight square meters of the subject area has long been the private property of one Rafael Calzada since 1951, and was acquired by the [Spouses De Guzman] by virtue of a Deed of Extra-judicial Partitition with Deed of Absolute Sale. This implies that the subject property has long acquired the character and nature of private land even before the filing of the application for free patent by [Spouses Bandong].
>
> x x x x x x x x x[44]

By virtue of the notarized 1979 Deed and the tax declaration covering the 1,320 sq. m. property under Pedro's name, the Spouses Bandong had a reasonable belief that Pedro was the owner of the said property and could thereby transmit its ownership. Also, Marceliano was paying taxes over the 1,320 sq. m. property. Tax declarations or realty tax payment of property are good *indicia* of possession in the concept of owner, and

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[41] Article 1129, New Civil Code.

[42] 717 Phil. 141 (2013).

[43] *Heirs of Mario Malabanan v. Republic of the Philippines*, *supra,* at 175.

[44] Records, p. 32.

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constitute at least proof that the holder has a claim of title over the property.[45]

The RTC ascertained that the Spouses Bandong are in actual possession of at least 1,119 sq. m. of the property since 1979. Aside from the 1960 Deed, the Spouses De Guzman did not present any evidence of the Spouses Bandong's bad faith or knowledge of the discrepancy in the area of the property originally conveyed to their father and of the property eventually sold to them. Since they occupied the portion since 1979, the Spouses Bandong have acquired by ordinary acquisitive prescription the area in excess of the 660 sq. m. purchased by Emilio, or more or less the area transferred by Pedro. It is also noted that it was the Spouses De Guzman who constructed the fence made of barb wire to delineate their boundaries in 1984.

It is emphasized that the registration of a patent under the Torrens System merely confirms the registrant's title. It does not vest title where there is none because registration under this system is not a mode of acquiring ownership.[46] The registration of the Spouses Bandong's free patent over the *Real* property did not vest them the ownership thereof. The Spouses De Guzman successfully ascertained their prior title, as well as the Spouses Bandong's title based on their predecessors' interest, which both corresponded with the area they actually occupied.

WHEREFORE, the petition for review on *certiorari* is **GRANTED.** The Decision and Resolution, dated August 20, 2014 and November 20, 2014, respectively, of the Court of Appeals in CA-G.R. CV No. 99522 are **REVERSED** and **SET ASIDE**, and the Decision of the Regional Trial Court of San Carlos City, Pangasinan, Branch 57 in Civil Case No. SCC-2767 is hereby **REINSTATED**.

SO ORDERED.

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

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[45] *Heirs of Santiago v. Heirs of Santiago,* 452 Phil. 238, 248 (2003).

[46] *Baguio v. Republic,* 361 Phil. 374 (1999).