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FIRST DIVISION

[G.R. No. L-23265. January 28, 1980]

MOISES HERICO, *petitioner, vs.* **CIPRIANO DAR and THE HONORABLE COURT OF APPEALS,** *respondents.*

SYLLABUS

CIVIL LAW; PUBLIC LAND ACT; A LAND CEASES TO BE OF THE PUBLIC DOMAIN UPON COMPLIANCE BY THE POSSESSOR WITH THE CONDITIONS FOR THE ISSUANCE OF A GOVERNMENT GRANT; ISSUANCE OF A CERTIFICATE OF TITLE, NOT REQUIRED; CASE AT BAR.— In the first place, the action to annul or cancel the certificate of title was brought within one year as admitted by respondent in his brief. Secondly, under the provisions of Republic Act No. 1942, which the respondent court held to be inapplicable to the petitioner's case, with the latter's proven occupation and cultivation for more than 30 years since 1914, by himself and by his predecessors-in-interest, title over the land has vested on petitioner as to segregate the land from the mass of public land. Thereafter, it is no longer disposable under the Public Land Act as by free patent: This is as provided in Republic Act No. 1942, which took effect on June 22, 1957, amending Section 48-b of Commonwealth Act No. 141 which provides: "'(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, for at least thirty years immediately preceding the filing of application for confirmation of title except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.'" (p. 8, Petitioner's Brief). As interpreted in several cases when the conditions as specified in the foregoing provision are complied with, the possessor is deemed to have acquired, *by operation of law*, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceases to be of the public domain, and beyond the authority of the Director of Lands to

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dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent.

APPEARANCES OF COUNSEL

Pedro A. Venida for petitioner.
Ricardo S. Heraldo & F.H. Geris for private respondent.

D E C I S I O N

DE CASTRO, *J.*:

Appeal by *certiorari* from the decision of the Court of Appeals[1] reversing the decision of the Court of First Instance of Camarines Norte in favor of the plaintiff, Moises Herico,[2] the petitioner herein, and accordingly dismissing the latter's complaint.[3]

The complaint filed on October 26, 1956 in the Court of First Instance of Camarines Norte, sought the cancellation of OCT No. P-506 of the Registry of Deeds of Camarines Norte, issued on May 10, 1956 pursuant to Free Patent No. V-36970 covering a parcel of land situated in Paracale, Camarines Norte, in the name of respondent Cipriano Dar.

As recited in the appealed judgment the plaintiff-petitioner's evidence shows the following:

"The plaintiff's evidence shows that the land in question is a part of the public domain; that in 1914, when it was still within the forest zone, it was occupied, together with the land adjoining it on the North (now in the possession of Pedro Lamadrid); that adjoining it on the East (now in possession of Maximino Andaya); and that on the West, now in possession of the heirs of Adriano Lopez, by Emilio, Gregorio

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[1] Promulgated May 27, 1964.

[2] Pp. XLIII-LIII, Record on Appeal.

[3] Annex "A" to petition for *certiorari*, p. 5, *Rollo*.

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and Isidoro, all surnamed Andaya; that the Andaya brothers gradually cleared the entire area by making *caiñgin* and planting bananas, *abaca*, and coconuts; that in 1918 when Isidoro, who was the youngest among the Andaya brothers, was ready and able to take care of and improve the land, it was ceded to him by his two elder brothers, Emilio and Gregorio; that while in possession he improved the land and incurred indebtedness from his aunt, Martina Herico, in the amount of ₱60.00, representing cash advances and cost of supplies given to him; that to guaranty payment of the said amount he executed on March 12, 1925, a private document purportedly mortgaging the land in question to Martina Herico (Exhibit A); that in 1938, Martina Herico demanded payment from him of the amount of indebtedness which by this time had amounted to ₱130.00 but Isidoro Andaya, instead of paying, transferred and assigned his right to the land to plaintiff Moises Herico, a brother of Martina, in consideration of the sum of ₱130.00 which was paid by Moises Herico to Martina Herico; that Moises Herico took possession of the land in 1939 and planted it with *abaca* and coconuts, although there were coconut trees thereon previously planted by Isidoro Andaya; that plaintiff declared the land for taxation purposes in 1940 and 1945; that in 1943, he placed Maximino Andaya, a son of Emilio Andaya, as tenant on the land who planted some coconut trees and remained as such tenant until 1953; that in 1949 plaintiff placed the defendant as his tenant on said land with the privilege of gathering all the produce thereof provided he planted some coconut trees for the plaintiff; that on December 12, 1955, while he was still plaintiff's tenant, defendant without the knowledge and consent of the plaintiff filed a Free Patent application for said land; that on April 7, 1956, the said application was approved and an order for the issuance of a patent was issued; that on May 10, 1956, the corresponding certificate of title was issued in favor of the defendant; that the adjoining owners of the land, including the plaintiff himself, who is also the owner of the adjoining land on the South, were not notified of the Free Patent application; and that the defendant is a relative of the plaintiff's wife who went to reside in Barrio Batobalane, municipality of Paracale, only after the liberation, staying at first in a house near that of the plaintiff, but out of charity plaintiff placed him as tenant on said land with the privilege of harvesting for his benefit the produce of the land." (pp. 2-4, Petitioner's Brief)

On the basis of the evidence of defendant-respondent which the Court of Appeals recited as follows:

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"On the other hand, the defendant sought to show that he took possession of the land in question in 1922; that he cultivated the same and possessed it continuously to the exclusion of all other persons; that he declared the land for taxation purposes and paid the taxes thereon ; that on December 10, 1949, he entered into a contract with Mrs. Victorina Salen and Mrs. Eufemia Salen to do prospecting work on the land in question and for them to sell the mining claims located thereon; that he also entered into a contract with Vicente Inocalla giving the latter the right to prospect, locate and carry out mining operations over said land; that he filed his Free Patent application after occupying and cultivating the land continuously since 1922; that nobody objected or filed a protest against his application in spite of the fact that notices of the application were posted in the various places required by law; that not being the owner of more than twenty-four hectares of land and having cultivated the land in question continuously since 1922, a report to that effect was submitted by Junior Public Land Inspector Florencio Rosales who stated in his report that the land is claimed by nobody and that the defendant had totally cultivated the total area of 8.5973 hectares and introduced improvements thereon consisting of 700 coconuts ranging from twenty to thirty years old, and banana plants scattered all over the land; that pursuant to said report, Free Patent No. V-36970 was issued by authority of the President of the Philippines and on the basis thereof Original Certificate of Title No. P-506 was issued to him by the Register of Deeds of Camarines Norte. (pp. V-VI, Petitioner's Brief)"

the Court awarded judgment in favor of defendant, Cipriano Dar.

The decision of the respondent Court failed utterly to pass on the question of whether respondent Dar was a tenant of petitioner Herico on the land in question. It proceeded on the assumption that there was no landlord-tenant relationship between them, and came to the conclusion that when respondent Dar applied for a free patent over the land in question, he did so without committing any fraud against petitioner or his landlord, or to create a constructive trust in favor of the latter. Sole basis of the conclusion was the approval of his application for free patent by the land authorities and the granting of the Torrens title thereafter.

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The allegation of respondent Dar that he has never been a tenant of the petitioner over the land in question is belied by his own statement which he signed on November 8, 1956 in which he admitted that he has been petitioner's tenant since 1945 (Exhibit D). On the witness stand he also admitted that he has been making *copra* for the petitioner.[4] With these admissions, it is easier to believe the allegation of petitioner that his possession dates back to 1914, through that of his predecessors-in-interest, as recited earlier, and declared the land for taxation purposes earlier in 1940 than respondent Dar who declared it only in 1952 (Exhibit 3), after he had been allegedly placed as tenant in the land in question in 1949.

What led the Court of Appeals to find in favor of respondent Dar is the fact that his application for a free patent was approved after the requisite official investigation which enjoys the presumption of regularity. This presumption however, may be said to have been seriously impaired by respondent Dar's admission of having been a tenant to petitioner Herico, for by such relationship, respondent Dar should not be heard to dispute his landlord's title, claim to which by the latter is strengthened by the prompt filing of the present action, just months after the issuance of the certificate of title sought to be cancelled, precisely on the ground of fraud. As held by this Court:

"It is elementary that a tenant will not be heard to dispute his landlord's title, hence, the proceedings whereby the defendants obtained free patents were fraudulent.

"We cannot concur with the distinguished trial judge that it is necessary that the plaintiff '*presente pruebas concluyentes o titulos positivos que justifiquen con la claridad de la luz meridiana el derecho de propiedad o dominio del demandante sobre los terrenos cuestionados.*' By virtue of his possession since 1928, established by the preponderance of evidence, the plaintiff is entitled to a certificate of title to the lands described in his petition, under the provisions of Section 45, paragraph (b), of Act No. 2874, the Public Land Law, and he is conclusively presumed to have performed all the conditions essential to a government grant. That being so, the original certificates

[4] p. 170, tsn.

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of title of free patent issued to the various defendants, as recited in the agreed statement of facts, were unauthorized and void as against this plaintiff." (*Lizada vs. Omanan,* 59 Phil. 547, 555; See also *Sevilla vs. De los Angeles*, G.R. No. 7745, November 18, 1955, 51 O.G. 5590; *Bancairen vs. Doines, et al.*, G.R. No. L-8013, December 20, 1956). (pp. 5-6 Petitioner's Brief).

Another obvious error of the respondent Court is in holding that after one year from the issuance of the Torrens title, the same can no longer be reopened to be declared null and void, and has become absolute and indefeasible. In the first place, the action to annul or cancel the certificate of title was brought within one year as admitted by respondent in his brief.[5] Secondly, under the provisions of Republic Act No. 1942, which the respondent court held to be inapplicable to the petitioner's case, with the latter's proven occupation and cultivation for more that 30 years since 1914, by himself and by his predecessors-in-interest, title over the land has vested on petitioner as to segregate the land from the mass of public land. Thereafter, it is no longer disposable under the Public Land Act as by free patent. This is as provided in Republic Act no. 1942, which took effect on June 22, 1957, amending Section 48-b of Commonwealth Act No. 141 which provides:

"'(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, for at least thirty years immediately preceding the filing of application for confirmation of title except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.'" (p. 8, Petitioner's Brief)

As interpreted in several cases[6] when the conditions as specified in the foregoing provision are complied with, the

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[5] p. 1, Respondent's Brief.

[6] *Susi vs. Razon. et al.*, 48 Phil. 424; *Mesina vs. Pineda Vda. de Sonza,* G.R. No. L-14722, May 25, 1960.

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possessor is deemed to have acquired, *by operation of law*, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceases to be of the public domain, and beyond the authority of the Director of Lands to dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent.

On the ground, therefore, that there is evidence of fraud in the filing of application for free patent over the land by respondent Dar, and that the land applied for had ceased to be part of the public domain by reason of the operation of Republic Act No. 1942 in favor of petitioner, the decision appealed from has to be reversed.

WHEREFORE, the judgment of the respondent Court of Appeals dismissing the complaint is hereby reversed, and another one entered cancelling Original Certificate of Title No. P-506 issued in favor of the defendant-respondent, for being null and void, and declaring plaintiff-petitioner entitled to either judicial confirmation or administrative legalization of his incomplete or imperfect title under the provision of the Public Land Act, Commonwealth Act No. 141, as amended.[7] Costs against private respondent.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio-Herrera, JJ.*, concur.

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[7] See annotations, 31 SCRA 191.