Supreme Court E-Library

FIRST DIVISION

[G.R. No. 84831. June 20, 2001]

PACENCIO ABEJARON, as represented by his Attorney-in-Fact, ALEJANDRO ABEJARON, *petitioner, vs.* **FELIX NABASA and the COURT OF APPEALS,** *respondents.*

SYNOPSIS

Petitioner Abejaron claimed that he is the actual and lawful possessor and claimant of a 118-square meter portion of a 175-square meter residential lot in Silway, General Santos City described as "Block 5, Lot 1, Psu-154953, bounded on the North by Road, on the South by Lot 2 of the same Psu, on the East by respondent Felix Nabasa, and on the West by Road. In 1945, petitioner Abejaron and his family started occupying the 118-square meter land and introduced improvements thereon. Respondent Nabasa did not oppose or complain about the improvements. On September 24, 1974, Nabasa was issued Original Certificate of Title No. P-4140 pursuant to Free Patent No. (XI-4) 2877, covering Lot 1, Block 5, Psu-154953. As the title included petitioner Abejaron's 118-square meter portion of the lot, his son, Alejandro Abejaron, representing Matilde Abejaron (petitioner Abejaron's wife), filed a protest with the Bureau of Lands, Koronadal, South Cotabato against Nabasa's title and application. The protest was dismissed for failure of Matilde and Alejandro to attend the hearings. Petitioner Abejaron filed against respondent Nabasa an action for reconveyance with damages seeking reconveyance of his 118-square meter portion of Lot 1, Block 5, Psu-154953. After trial on the merits, the trial court ruled in favor of petitioner Abejaron. Respondent Nabasa's motion for reconsideration having been denied, he appealed to the Court of Appeals. The Court of Appeals rendered a decision in favor of respondent Nabasa. The appellate Court ruled that Abejaron failed to substantiate the existence of actual fraud. There was also no proof of irregularity in the issuance of title nor in the proceedings incident thereto nor was there a claim that fraud intervened in the issuance of the title, thus, the title had become indefeasible. Hence, the present petition for review.

The Supreme Court denied the petition and affirmed the decision of the Court of Appeals. According to the Court, while petitioner

Supreme Court E-Library

has shown continued existence of the improvements he introduced on the disputed land, he, however, failed to establish the portion of the disputed land that his original nipa house, small store and wooden fence actually occupied as of January 24, 1947. In the absence of said proof, the Court cannot determine the land he actually possessed and occupied for thirty years which he may acquire under Sec. 48(b) of the Public Land Act. Worthy of notice is the fact that the disputed land was surveyed, subdivided into and identified by lots only in the 1970's. Therefore, prior to the survey, it would be difficult to determine the metes and bounds of the land petitioner claims to have occupied since 1947 in the absence of specific and incontrovertible proof. Petitioner's evidence does not constitute the "well-nigh incontrovertible" evidence necessary to acquire title through possession and occupation of the disputed land at least since January 24, 1947 as required by Sec. 48(b) of the Public Land Act, as amended by R.A. 1942. The Court also ruled that petitioner Abejaron is not the proper party to file an action for reconveyance that would result in the reversion of the land to the government. It is the Solicitor General, on behalf of the government, who is by law mandated to institute an action for reversion.

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; ACTION FOR RECONVEYANCE OF PROPERTY; CONSTRUED; FOR AN ACTION FOR RECONVEYANCE BASED ON FRAUD TO PROSPER, IT IS ESSENTIAL FOR PARTY SEEKING RECONVEYANCE TO PROVE BY CLEAR AND CONVINCING EVIDENCE HIS TITLE TO THE PROPERTY AND FACT OF FRAUD.**— An action for reconveyance of a property is the sole remedy of a landowner whose property has been wrongfully or erroneously registered in another's name after one year from the date of the decree so long as the property has not passed to an innocent purchaser for value. The action does not seek to reopen the registration proceeding and set aside the decree of registration but only purports to show that the person who secured the registration of the property in controversy is not the real owner thereof. Fraud is a ground for reconveyance. For an action for reconveyance based on fraud to prosper, it is essential for the party seeking reconveyance to prove by clear and convincing evidence his title to the property and the fact of fraud.

Supreme Court E-Library

2. **ID.; ID.; PUBLIC LAND ACT; SECTION 48(B) THEREOF APPLICABLE IN CASE AT BAR; LAW CANNOT IMPAIR VESTED RIGHTS SUCH AS A LAND GRANT.**— As petitioner Abejaron's 30-year period of possession and occupation required by the Public Land Act, as amended by R.A. 1942 ran from 1945 to 1975, prior to the effectivity of P.D. No. 1073 in 1977, the requirement of said P.D. that occupation and possession should have started on June 12, 1945 or earlier, does not apply to him. As the *Susi* doctrine holds that the grant of title by virtue of Sec. 48(b) takes place by operation of law, then upon Abejaron's satisfaction of the requirements of this law, he would have already gained title over the disputed land in 1975. This follows the doctrine laid down in *Director of Lands v. Intermediate Appellate Court, et al.,* that the law cannot impair vested rights such as a land grant. More clearly stated, "Filipino citizens who by themselves or their predecessors-in-interest have been, prior to the effectivity of P.D. 1073 on January 25, 1977, 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 30 years, or at least since January 24, 1947" may apply for judicial confirmation of their imperfect or incomplete title under Sec. 48(b) of the Public Land Act.

3. **ID.; PROPERTY; OWNERSHIP; TAX RECEIPTS AND TAX DECLARATIONS BECOME STRONG EVIDENCE OF OWNERSHIP ACQUIRED BY PRESCRIPTION WHEN ACCOMPANIED BY PROOF OF ACTUAL POSSESSION OF PROPERTY OR SUPPORTED BY OTHER EFFECTIVE PROOF.**— As admitted by the petitioner, he has never declared the disputed land for taxation purposes. While tax receipts and tax declarations are not incontrovertible evidence of ownership, they become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property or supported by other effective proof. Even the tax declarations and receipts covering his house do not bolster his case as the earliest of these was dated 1950.

4. **REMEDIAL LAW EVIDENCE; FINDINGS OF FACT OF TRIAL COURT AND COURT OF APPEALS ARE FINAL AND CONCLUSIVE ON THE PARTIES AND UPON THIS COURT AND WILL NOT BE REVIEWED OR DISTURBED ON APPEAL UNLESS STRONG AND COGENT REASONS DICTATE OTHERWISE.**— Having laid down the law applicable

Supreme Court E-Library

to the case at bar, *i.e.*, Sec. 48(b) of the Public Land Act, as amended by R.A. 1942, we now determine whether or not petitioner has acquired title over the disputed land. In doing so, it is necessary for this Court to wade through the evidence on record to ascertain whether petitioner has been in open, continuous, exclusive and notorious possession and occupation of the 118-square meter disputed land for 30 years at least since January 24, 1947. It is axiomatic that findings of fact by the trial court and the Court of Appeals are final and conclusive on the parties and upon this Court, which will not be reviewed or disturbed on appeal unless these findings are not supported by evidence or unless strong and cogent reasons dictate otherwise. One instance when findings of fact of the appellate court may be reviewed by this Court is when, as in the case at bar, the factual findings of the Court of Appeals and the trial court are contradictory.

5. **ID.; ID.; DISPUTABLE PRESUMPTIONS; LANDS OF WHATEVER CLASSIFICATION BELONG TO THE STATE AND EVIDENCE OF A LAND GRANT MUST BE "WELL-NIGH INCONTROVERTIBLE".**— Petitioner's evidence does not constitute the "well-nigh incontrovertible" evidence necessary to acquire title through possession and occupation of the disputed land at least since January 24, 1947 as required by Sec. 48(b) of the Public Land Act, as amended by R.A. 1942. The basic presumption is that lands of whatever classification belong to the State and evidence of a land grant must be "well-nigh incontrovertible." As petitioner Abejaron has not adduced any evidence of title to the land in controversy, whether by judicial confirmation of title, or homestead, sale, or free patent, he cannot maintain an action for reconveyance.

6. **ID.; CIVIL PROCEDURE; PARTIES TO CIVIL ACTIONS; REAL PARTY IN INTEREST; PETITIONER IN CASE AT BAR NOT PROPER PARTY TO FILE AN ACTION FOR RECONVEYANCE THAT WOULD RESULT IN REVERSION OF LAND TO THE GOVERNMENT; SOLICITOR GENERAL MANDATED BY LAW TO INSTITUTE AN ACTION FOR REVERSION ON BEHALF OF THE GOVERNMENT.**— As petitioner Abejaron has failed to show his title to the disputed land, he is not the proper party to file an action for reconveyance that would result in the reversion of the land to the government. It is the Solicitor General, on behalf of the government, who is by law mandated to institute an action

Supreme Court E-Library

for reversion. He has the specific power and function to "represent the Government in all land registration and related proceedings" and to "institute actions for the reversion to the Government of lands of the public domain and improvements thereon as well as lands held in violation of the Constitution." Since respondent Nabasa's Free Patent and Original Certificate of Title originated from a grant by the government, their cancellation is a matter between the grantor and the grantee.

APPEARANCES OF COUNSEL

Arcadio G. Dela Cruz for petitioner.
Antonio Geoffrey H. Canja for private respondent.

D E C I S I O N*

PUNO, *J.*:

With the burgeoning population comes a heightened interest in the limited land resource, especially so if, as in the case at bar, one's home of many years stands on the land in dispute. It comes as no surprise therefore that while this case involves a small parcel of land, a 118-square meter portion of Lot 1, Block 5, Psu-154953 in Silway, General Santos City, the parties have tenaciously litigated over it for more than twenty years.

Petitioner Abejaron filed this petition for review on *certiorari* to annul the respondent court's Decision dated April 26, 1988 and Resolution dated July 12, 1988 reversing the trial court's decision and declaring respondent Nabasa the owner of the subject lot.

The following facts spurred the present controversy:

Petitioner Abejaron avers that he is the actual and lawful possessor and claimant of a 118-square meter portion of a 175-square meter residential lot in Silway, General Santos City described as "Block 5, Lot 1, Psu-154953, bounded on the North by Road, on the South by Lot 2 of the same Psu, on the East by

* This case was transferred to the *ponente* on April 2, 2001 pursuant to Resolution in A.M. No. 00-9-03-SC. – Re: Creation of Special Committee on Case Backlog dated February 27, 2001.

Supreme Court E-Library

Felix Nabasa, and on the West by Road."[1] In 1945, petitioner Abejaron and his family started occupying the 118-square meter land. At that time, the land had not yet been surveyed. They fenced the area and built thereon a family home with *nipa* roofing and a small store. In 1949, petitioner improved their abode to become a two-storey house measuring 16 x 18 feet or 87.78 square meters made of round wood and *nipa* roofing.[2] This house, which stands to this day, occupies a portion of Lot 1, Block 5, Psu-154953 and a portion of the adjoining Lot 2 of the same Psu. Lot 2 belongs to petitioner's daughter, Conchita Abejaron-Abellon. In 1950, the small store was destroyed and in its stead, petitioner Abejaron built another store which stands up to the present. In 1951, he planted five coconut trees on the property in controversy. Petitioner's wife, Matilde Abejaron, harvested coconuts from these trees.[3] Petitioner Abejaron also planted banana and avocado trees. He also put up a pitcher pump.[4] All this time that the Abejarons introduced these improvements on the land in controversy, respondent Nabasa did not oppose or complain about the improvements.

Knowing that the disputed land was public in character, petitioner declared only his house, and not the disputed land, for taxation purposes in 1950, 1966, 1976, and 1978.[5] The last two declarations state that petitioner Abejaron's house stands on Lots 1 and 2, Block 5, Psu 154953.[6] Abejaron paid taxes on the house in 1955, 1966, and 1981.[7]

---

[1] Rollo, p. 173; Memorandum for Petitioner, p. 2; Brief for Plaintiff-Appellee Abejaron, p. 1.

[2] TSN, Alejandro Abejaron, May 8, 1984, p. 30; Matilde Abejaron, February 14, 1984, pp. 5-6.

[3] TSN, Matilde Abejaron, *supra*, p. 7.

[4] TSN, Alejandro Abejaron, *supra*, p. 29; Matilde Abejaron, *supra*, p. 6.

[5] *Rollo*, p. 174; Memorandum for Petitioner, p. 3; Exhibits "A", A-1", "B", "B-1", "C", "C-1", and "E", "E-1."

[6] TSN, Alejandro Abejaron, May 8, 1984, p. 31.

[7] *Rollo*, p. 174; Memorandum for Petitioner, p. 3; Exhibits "F", "G" and "H", respectively.

Supreme Court E-Library

Petitioner stated that beginning 1955, respondent Nabasa resided on the remaining 57-square meter portion of Lot 1, Block 5, Psu-154953.[8] Nabasa built his house about four (4) meters away from petitioner Abejaron's house. Beatriz Gusila, a neighbor of the Abejarons and the Nabasas confirmed that when she arrived in Silway in 1949, Nabasa was not yet residing there while Abejaron was already living in their house which stands to this day.

Before 1974, employees of the Bureau of Lands surveyed the area in controversy. Abejaron merely watched them do the survey[9] and did not thereafter apply for title of the land on the belief that he could not secure title over it as it was government property.[10] Without his (Abejaron) knowledge and consent, however, Nabasa "clandestinely, willfully, fraudulently, and unlawfully applied for and caused the titling in his name" of the entire Lot 1, Block 5, Psu-154953, including petitioner Abejaron's 118-square meter portion.[11] Petitioner imputes bad faith and fraud on the part of Nabasa because in applying for and causing the titling in his name of Lot 1, Block 5, Psu-154953, Nabasa represented himself to be the actual and lawful possessor of the entire Lot 1, Block 5, including petitioner Abejaron's 118-square meter portion despite knowledge of Abejaron's actual occupation and possession of said portion.[12]

On September 24, 1974, Nabasa was issued Original Certificate of Title No. P-4140 pursuant to Free Patent No. (XI-4) 2877 covering Lot 1, Block 5, Psu-154953. As the title included petitioner Abejaron's 118-square meter portion of the lot, his son, Alejandro Abejaron, representing Matilde Abejaron (petitioner Abejaron's wife), filed a protest with the Bureau of Lands, Koronadal, South Cotabato against Nabasa's title and application. The protest was dismissed on November 22, 1979 for failure of

---

[8] Brief for Plaintiff-Appellee Abejaron in the Court of Appeals, p. 1.

[9] TSN, Pacencio Abejaron, January 19, 1984, pp. 11-12.

[10] *Id.*, pp. 14-15.

[11] Brief for Plaintiff-Appellee Abejaron in the Court of Appeals, p. 2.

[12] *Rollo*, pp. 173-174; Memorandum for Petitioner, pp. 2-3; Exhibits "I" and "I-1".

Supreme Court E-Library

Matilde and Alejandro to attend the hearings.[13] Alejandro claims, however, that they did not receive notices of the hearings. Alejandro filed a motion for reconsideration dated January 10, 1980. Alejandro also filed a notice of adverse claim on January 14, 1980. Subsequently, he requested the Bureau of Lands to treat the motion as an appeal considering that it was filed within the 60-day reglementary period. The motion for reconsideration was endorsed and forwarded by the District Land Office XI-3 of the Bureau of Lands in Koronadal, Cotabato to the Director of Lands in Manila on November 24, 1981.[14] But because the appeal had not been resolved for a prolonged period for unknown reasons, petitioner Abejaron filed on March 12, 1982 an action for reconveyance with damages against respondent Nabasa before Branch 22, Regional Trial Court of General Santos City.[15] On May 10, 1982, petitioner filed a notice of *lis pendens*.[16]

Abner Lagsub, geodetic engineer, testified for the petitioner. Lagsub stated that on March 30, 1980, Alejandro Abejaron hired him to relocate Lot 1, Block 5, Psu-154953, the land in controversy. He surveyed the lot measuring 175 square meters. Fifty-seven (57) square meters of Lot 1 and a portion of the adjoining Lot 3 were occupied by Nabasa's house. This portion was fenced partly by hollow blocks and partly by bamboo. On the remaining 118 square meters stood a portion of petitioner Abejaron's house and two coconut trees near it, and his store. Abejaron's 118-square meter portion was separated from Nabasa's 57-square meter part by Abejaron's fence made of hollow blocks. Both Nabasa's and Abejaron's houses appeared more than twenty years old while the coconut trees appeared about 25 years old.

Back in 1971, Lagsub conducted a subdivision survey on Psu-154953. He was then hired by the Silway Neighborhood Association to conduct the survey for purposes of allocating lots to the members of the association, among whom were respondent

---

[13] *Rollo*, p. 176; Memorandum for Petitioner, p. 5.

[14] TSN, Alejandro Abejaron, May 8, 1984, pp. 24-25.

[15] Brief for Plaintiff-Appellee Abejaron in the Court of Appeals, p. 2.

[16] TSN, Alejandro Abejaron, *supra*, pp. 25-27.

Supreme Court E-Library

Nabasa and petitioner Abejaron. When the 1971 survey was conducted, both the Abejarons and Nabasa were already occupying their respective 118 and 57 square meter portions of Lot 1, Block 5. Nabasa and Matilde Abejaron, representative of petitioner, were present during the survey.[17]

Respondent Nabasa had a different story to tell. He contends that he had been residing on a 12 x 15 meter or 180-square meter public land in Silway, General Santos City since 1945. He admits that petitioner Abejaron was already residing in Silway when he arrived there. Nabasa constructed a house which stands to this day and planted five coconut trees on this 180-square meter land, but only two of the trees survived. Nabasa never harvested coconuts from these trees as petitioner Abejaron claims to own them and harvests the coconuts. In many parts of respondent Nabasa's testimony, however, he declared that he started occupying the 180-square meter area in 1976.[18]

Nabasa avers that previously, he and petitioner Abejaron were in possession of portions of Lot 2, Psu-154953. This lot was subsequently surveyed and divided into smaller lots with the area of petitioner Abejaron designated as Lot 2, Block 5, Psu-154953 measuring one hundred eighty (180) square meters, while his was designated as Lot 1, Block 5, Psu-154953 with an area of one hundred seventy five (175) square meters.

Instead of applying for free patent over his Lot 2, petitioner Abejaron gave this lot to his daughter Conchita Abejaron-Abellon and allowed her to file the application with the District Land Office XI-4, Bureau of Lands, Koronadal, South Cotabato. Conchita secured Free Patent No. (XI-4)-3293 over Lot 2. Pursuant to this, she was issued Original Certificate of Title No. P-4420. On April 27, 1981, Conchita's title was transcribed in the Registration Book of General Santos City.

Respondent Nabasa, on the other hand, filed an application for Free Patent over Lot 1, Block 5, Psu-154953 with the District Land Office No. XI-4, Bureau of Lands, Koronadal, South

---

[17] TSN, Abner Lagsub, May 15, 1984, pp. 39-48.

[18] TSN, Felix Nabasa, July 3, 1984, pp. 22-31, 37.

Supreme Court E-Library

Cotabato. While the application was pending, petitioner Abejaron forcibly encroached upon the northern and southwestern portion of Lot 1, Block 5, Psu-159543. Abejaron fenced the disputed 118-square meter portion of Lot 1 and despite Nabasa's opposition, constructed a store near the road. Petitioner Abejaron then transferred his old house constructed on Lot 2, Block 5, Psu-154953 to a portion of the disputed 118-square meter area. Petitioner's daughter, Conchita, patentee and title holder of Lot 2, constructed her own house in Lot 2.

Free Patent No. (XI-4)-2877, covering Lot 1, Block 5, was issued to respondent Nabasa on September 24, 1974. But before the patent could be transcribed on the Registration Book of the Registrar of Deeds of General Santos City, the District Land Officer of District Land Office No. XI-4 recalled it for investigation of an administrative protest filed by the petitioner.[19] The protest was given due course, but petitioner Abejaron or his representative failed to appear in the hearings despite notice.

On November 22, 1979, the administrative protest was dismissed by the District Land Officer for failure of petitioner Abejaron or his representative to appear in the hearings despite notice.[20] Respondent Nabasa's Free Patent No. (XI-4)-2877 was then re-transmitted by the District Land Officer of District Land Office XI-4 to the Register of Deeds, General Santos City, and the same was transcribed in the Registration Book of the Registry of Property of General Santos City on December 13, 1979. Original Certificate of Title No. P-4140, covering Lot 1, Block 2, Psu-154953, was issued to respondent Nabasa.[21]

On March 12, 1982, petitioner Abejaron filed against respondent Nabasa an action for reconveyance with damages seeking

---

[19] *Rollo*, p. 122; Comments on the Petition for Review by Certiorari with Preliminary Injunction and/or Temporary Restraining Order, p. 3; Exhibits "L" to "L-2" and Exh. "3" to "3-b".

[20] *Id.*; Exhibit "4" and Exhibit "M".

[21] *Rollo*, p. 122; Comments on the Petition for Review by Certiorari with Preliminary Injunction and/or Temporary Restraining Order; Exhibit 1 and Exhibit "I".

Supreme Court E-Library

reconveyance of his 118-square meter portion of Lot 1, Block 5, Psu-154953.

During the trial, respondent Nabasa presented Abundio Guiral, his neighbor who had been living since 1945 in Lot 3, Block 5, Psu-154953, adjoining Nabasa's Lot 1. He testified that when he arrived in Silway, petitioner Abejaron was already living there. Four months after, Nabasa started residing in the area. Nabasa constructed a house, planted coconut trees, and fenced his 12 x 15 meter area. Abejaron's house in 1945 is still the same house he lives in at present, but in 1977, it was jacked up and transferred from Lot 2 to Lot 1, Block 5. Nabasa tried to prevent the transfer to no avail. The house was then extended towards Lot 2.[22]

On rebuttal, petitioner Abejaron presented two neighbors. One of them, Alejandra Doria, started living in Silway in 1947. She testified that when she arrived in the neighborhood, Abejaron's fence as it now stands between the 57-square meter portion occupied by Nabasa's house and the 118-square meter area claimed by petitioner Abejaron was already there.[23] The other neighbor, Pacencia Artigo, also started living in Silway in 1947. She declared that the house of the Abejarons stands now where it stood in 1947. She also testified that the Abejarons previously had a store smaller than their present store.[24]

On September 27, 1985, after trial on the merits, the trial court ruled in favor of petitioner Abejaron, *viz*:

"WHEREFORE, IN VIEW OF ALL THE FOREGOING, this court hereby renders judgment as follows:

1. Declaring the possession and occupancy of Pacencio Abejaron over 118 square meters of Lot No. 1, Block 5, Psu-154953 in good faith and thereby declaring the inclusion of 118 square meters of said lot in OCT No. P-4140 erroneous and a mistake, and for which, defendant Felix Nabasa is hereby ordered to reconvey and execute a registerable document in favor of plaintiff Pacencio Abejaron, Filipino, married and

---

[22] TSN, Abundio Guiral, August 13, 1984, pp. 53-54.

[23] TSN, Alejanda Doria, August 17, 1984, p. 71.

[24] TSN, Pacencia Artigo, August 17, 1984, pp. 83-86.

Supreme Court E-Library

a resident of Silway, General Santos City, his heirs, successors and assigns over an area of one hundred eighteen (118) square meters of Lot No. 1, Block 5, Psu-154953, situated at Silway, General Santos City, on the Western portion of said lot as shown in the sketch plan, Exhibit "R", and the remaining portion of 57 square meters of said lot to be retained by defendant Felix Nabasa;

2) Should Felix Nabasa fails (sic) to do so, upon the finality of this judgment, the Clerk of Court shall executed (sic) it in the name of Felix Nabasa, widower, and will have the same effect as if executed by the latter and the Register of Deeds, General Santos City, is hereby directed to issue New Transfer Certificate of Title to Alejandro Abejaron over 118 square meters of Lot No. 1, Block 5, Psu-154953, and New Transfer Certificate of Title over 57 square meters of same Lot No. 1, Block 5, Psu-154953, in favor of Felix Nabasa, and ultimately to have OCT No. P-4140 of Felix Nabasa cancelled accordingly."

Respondent Nabasa's motion for reconsideration having been denied, he appealed to the Court of Appeals. On April 26, 1988, the Court of Appeals rendered a decision in favor of respondent Nabasa, *viz*:

"x x x the only basis for reconveyance is actual fraud. In this case, Abejaron failed to substantiate the existence of actual fraud x x x There was no proof of irregularity in the issuance of title nor in the proceedings incident thereto nor was there a claim that fraud intervened in the issuance of the title, thus, the title has become indefeasible (Frias v. Esquival, 67 SCRA 487). Abejaron was not able to establish his allegation that Nabasa misrepresented his status of possession in his application for the title x x x In fact, in Abejaron's answer to Nabasa's counterclaim, he said that Nabasa has been occupying the area since 1950.

Contrary to the finding of the court *a quo*, the Bureau of Lands conducted an ocular inspection before the title was issued. This was confirmed by Abejaron himself (tsn, January 19, 1984).

xxx

WHEREFORE, premises considered, the decision appealed from is hereby REVERSED and SET ASIDE and a new one entered declaring Felix Nabasa as the owner of the lot covered by O.C.T. No. P-4140. Costs against plaintif-appellee.

SO ORDERED."

Supreme Court E-Library

Petitioner Abejaron filed a motion for reconsideration of the Court of Appeals decision. On July 22, 1988, the Court of Appeals rendered a resolution denying the motion for reconsideration for lack of merit. Hence, this petition for review on *certiorari* with the following assignment of errors:

"I. THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT ACTUAL FRAUD WAS COMMITTED BY THE PRIVATE RESPONDENT AND PROVEN BY THE PETITIONER AND SUSTAINED BY THE TRIAL COURT WHEN PRIVATE RESPONDENT PROCURED THE TITLE IN HIS NAME OF THE AREA OF THE LOT IN QUESTION, LOT 1, BLOCK 5, LOCATED AT SILWAY, DADIANGAS, GENERAL SANTOS CITY.

II. THE HONORABLE COURT OF APPEALS ERRED IN CONCLUDING THAT THE LOT WHICH BELONGS TO THE PETITIONER IS LOT 2 OF THE SAME BLOCK AND PSU, AND THAT THE PETITIONER FORCIBLY ENTERED INTO LOT 1 OF THE SAME BLOCK AND PSU, AND FORCIBLY TRANSFERRED HIS OLD HOUSE FROM LOT 2 TO LOT 1 IS BASED ONLY ON THE SELF-SERVING ALLEGATIONS OF THE PRIVATE RESPONDENT AND NOT SUPPORTED BY ANY COMPETENT AND CONVINCING EVIDENCE.

III. THE HONORABLE COURT OF APPEALS ERRED IN DISREGARDING THE FACT THAT PETITIONER HAS A CLEAR RIGHT OVER THE PROPERTY IN QUESTION BECAUSE HE HAS BEEN IN ACTUAL AND LAWFUL POSSESSION FOR SO MANY YEARS AND A CLAIMANT OF THE PROPERTY IN QUESTION."

We affirm the decision of the Court of Appeals.

An action for reconveyance of a property is the sole remedy of a landowner whose property has been wrongfully or erroneously registered in another's name after one year from the date of the decree so long as the property has not passed to an innocent purchaser for value.[25] The action does not seek to reopen the registration proceeding and set aside the decree of registration but only purports to show that the person who secured the registration

---

[25] *Director of Lands, et al. v. Register of Deeds of Rizal, et al.*, 92 Phil. 826 (1953).

Supreme Court E-Library

of the property in controversy is not the real owner thereof.[26] Fraud is a ground for reconveyance. For an action for reconveyance based on fraud to prosper, it is essential for the party seeking reconveyance to prove by clear and convincing evidence his title to the property and the fact of fraud.[27]

Petitioner Abejaron does not claim to own Lot 1, Block 5, Psu-154953. He in fact admits that he believed the land in dispute was public in character, thus he did not declare it for taxation purposes despite possession of it for a long time. Neither did he apply for title over it on the mistaken belief that he could not apply for title of a public land. In his Complaint, he stated that respondent Nabasa's fraudulent procurement of Free Patent No. (XI-4)-2877 and OCT No. P-4140 over the disputed land deprived him not of ownership, but of his "right to file the necessary application thereon with the authorities concerned"[28] as long-time possessor of the land.

Nonetheless, petitioner contends that an action for reconveyance is proper, *viz*:

"x x x for an action of reconveyance of a parcel of land to prosper, it is not necessary that the proponent be the absolute owner thereof. It is enough that the proponent has an equitable right thereon. In the case at bar, the plaintiff had been in lawful, open, continuous and notorious possession, occupation and control in the concept of an owner of a greater portion of the subject lot since 1945 and have (*sic*) thereby acquired an equitable right thereon protected by law. Possession of public lands once occupation of the same is proven, as the herein plaintiff did, under claim of ownership constitutes a grant from the state (*Republic vs. Vera,* 120 SCRA 210). A portion of the public land ceased to be public as soon as its claimant had performed all the conditions essential to a grant (*Republic vs. Villanueva*, 114 SCRA 875)."[29]

---

[26] *Rodriguez v. Toreno*, 79 SCRA 356 (1977).

[27] *Heirs of Mariano, Juan, Tarcela and Josefa, all surnamed Brusas v. Court of Appeals and Heirs of Spouses Ines Brusas and Cleto Rebosa*, 313 SCRA 176 (1999).

[28] Original Records, p. 2.

[29] Original Records, p. 155; Opposition to the Motion for Reconsideration, p. 3.

Supreme Court E-Library

Petitioner's contention, buttressed by the *Vera case* and Chief Justice Teehankee's dissent in the *Villanueva* case, is similar to the position taken by the plaintiff in *Mesina v. Vda. de Sonza, et al.*[30] In that case, plaintiff filed in the Court of First Instance of Nueva Ecija an action for cancellation of the original certificate of title procured by the defendant by virtue of a homestead patent. The title covered a public land which she claimed to own through public, open, and peaceful possession for more than thirty years. The law applicable in that case, which petitioner Abejaron apparently relies on in the case at bar, is Sec. 48(b) of Commonwealth Act 141 or the Public Land Act, as amended by Republic Act No. 1942, which took effect on June 22, 1957, *viz*:

"Sec. 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance (now Regional Trial Courts) of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act (now Property Registration Decree), to wit:

xxx

(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 the 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.*" (italics supplied)

Citing *Susi v. Razon*,[31] the Court interpreted this law, *viz*:

"x x x where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly with a right to a certificate of title to said land under the provisions of Chapter VIII of Act No. 2874, amending

---

[30] 108 Phil. 251 (1960).

[31] 48 Phil. 424 (1925).

Supreme Court E-Library

Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 141), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the courts -an application therefor being sufficient under the provisions of Section 47 of Act No. 2874 (reproduced as Section 50, Commonwealth Act No. 141*). If by a legal fiction, Valentin Susi had acquired the land in question by grant of the State, it had already ceased to be of the public domain and had become private property, at least by presumption, of Valentin Susi, beyond the control of the Director of Lands.* (Italics supplied)"

The *Mesina* and *Susi* cases were cited in *Herico v. Dar*,[32] another action for cancellation of title issued pursuant to a free patent. Again, the Court ruled that under Section 48(b) of the Public Land Act, as amended by Rep. Act No. 1942, with the plaintiff's proof of occupation and cultivation for more than 30 years since 1914, by himself and by his predecessor-in-interest, title over the land had vested in him as to segregate the land from the mass of public land. Thenceforth, the land was no longer disposable under the Public Land Act by free patent.[33] The Court held, *viz*:

"As interpreted in several cases (*Susi v. Razon, et al.*, 48 Phil. 424; *Mesina v. Pineda Vda. de Sonza*, G.R. No. L-14722, May 25, 1960) 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 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."[34]

In citing *Republic v. Villanueva, et al.*,[35] petitioner Abejaron relied on the dissenting opinion of Chief Justice Teehankee. However, the *en banc* majority opinion in that case and in *Manila*

---

[32] 95 SCRA 437 (1980).

[33] *Ibid.*

[34] *Id.*, pp. 443-444.

[35] 114 SCRA 875 (1982).

Supreme Court E-Library

Electric Company v. Bartolome,[36] departed from the doctrines enunciated in the *Susi, Mesina,* and *Herico* cases. Citing *Uy Un v. Perez*,[37] the Court ruled that "the right of an occupant of public agricultural land to obtain a confirmation of his title under Sec. 48(b) of Com. Act. No. 141, as amended by Rep. Act No. 1942, is '*derecho dominical incoativo*' and that before the issuance of the certificate of title the occupant is not in the juridical sense the true owner of the land since it still pertains to the State."[38]

The Court pointed out that the *Villanueva* and *Meralco* cases are different from the oft-cited *Susi* case as the latter involved a parcel of land possessed by a Filipino citizen since time immemorial, while the land in dispute in the *Villanueva* and *Meralco* cases were sought to be titled by virtue of Sec. 48(b) of the Public Land Act, as amended. In explaining the nature of land possessed since time immemorial, the Court quoted *Oh Cho v. Director of Lands*,[39] *viz:*

"All lands that were not acquired from the Government, either by purchase or by grant, belong to the public domain. An exception to the rule would be any land that should have been in the possession of an occupant and of his predecessors-in-interest since time immemorial, for such possession would justify the presumption that the land had never been part of the public domain or that it had been a private property even before the Spanish conquest."

In 1986, however, in *Director of Lands v. Intermediate Appellate Court, et al.,*[40] this Court *en banc* recognized the strong dissent registered by Chief Justice Teehankee in the *Villanueva* case and abandoned the *Villanueva* and *Meralco* ruling to revert to the *Susi* doctrine. Reiterating the *Susi* and *Herico* cases, the Court ruled:

"Nothing can more clearly demonstrate the logical inevitability of considering possession of public land which is of character and duration

---

[36] 114 SCRA 799 (1982).

[37] 71 Phil. 508 (1941).

[38] *Republic v. Villanueva, supra.*

[39] 75 Phil. 890 (1946).

[40] 146 SCRA 509 (1986).

Supreme Court E-Library

prescribed by statute as the equivalent of express grant from the State than the dictum of the statute itself [Sec. 48(b)] that the possessor(s) 'x x x shall be *conclusively presumed* to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title x x x.' No proof being admissible to overcome a conclusive presumption, confirmation proceedings would, in truth be little more than a formality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time; and registration thereunder would not confer title, but simply recognize a title already vested. The proceedings would not *originally* convert the land from public to private land, but only confirm such a conversion already effected *by operation of law* from the moment the required period of possession became complete."[41] (Italics supplied)

This is the prevailing rule as reiterated in the more recent case of *Rural Bank of Compostela v. Court of Appeals,* a *ponencia* of now Chief Justice Davide, Jr.,[42] *viz*:

"The rule under the latter (Section 48[b] of the Public Land Act, as amended by R.A. No. 1942), is that when the conditions specified therein are complied with, the possessor is deemed to have acquired, by operation of law, a right to a government grant, without necessity of a certificate of title being issued, and the land ceases to be part of the public domain and beyond the authority of the Director of Lands."[43]

The question brought to the fore, therefore, is whether or not petitioner Abejaron has satisfied the conditions specified in Sec. 48(b) of the Public Land Act, as amended by R.A. No. 1942. Sec. 48(b) has been further amended by P.D. No. 1073 which took effect on January 25, 1977. Sec. 4 of the P.D. reads as follows:

"Sec. 4. The provision of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act, are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his

---

[41] *Director of Lands v. IAC, et al., supra,* p. 520.

[42] 271 SCRA 76 (1997).

[43] *Id.*, p. 86, footnote omitted; See also *Republic v. Court of Appeals, et al.,* 235 SCRA 567 (1994) and *De Ocsio v. Court of Appeals*, 170 SCRA 729 (1989).

Supreme Court E-Library

predecessor-in-interest, under a bona fide claim of acquisition of ownership, since June 12, 1945."

Sec. 48(b) of the Public Land Act, as further amended by P.D. No. 1073, now reads:

"(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 or ownership, *since June 12, 1945, or earlier, immediately preceding the filing of the application for confirmation of title*, except when prevented by *wars or force majeure*. Those 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." (Italics ours)[44]

However, as petitioner Abejaron's 30-year period of possession and occupation required by the Public Land Act, as amended by R.A. 1942 ran from 1945 to 1975, prior to the effectivity of P.D. No. 1073 in 1977, the requirement of said P.D. that occupation and possession should have started on June 12, 1945 or earlier, does not apply to him. As the *Susi* doctrine holds that the grant of title by virtue of Sec. 48(b) takes place by operation of law, then upon Abejaron's satisfaction of the requirements of this law, he would have already gained title over the disputed land in 1975. This follows the doctrine laid down in *Director of Lands v. Intermediate Appellate Court, et al.*,[45] that the law cannot impair vested rights such as a land grant. More clearly stated, "Filipino citizens who by themselves or their predecessors-in-interest have been, prior to the effectivity of P.D. 1073 on January 25, 1977, 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 30 years, or at least since January 24, 1947" may apply for judicial confirmation of their imperfect or incomplete title under Sec. 48(b) of the Public Land Act.[46]

---

[44] *Republic v. Doldol*, 295 SCRA 359 (1998).

[45] *Supra*, note 40.

[46] Aquino, *Land Registration and Related Proceedings*, 1997, p. 28.

Supreme Court E-Library

Having laid down the law applicable to the case at bar, *i.e.*, Sec. 48(b) of the Public Land Act, as amended by R.A. 1942, we now determine whether or not petitioner has acquired title over the disputed land. In doing so, it is necessary for this Court to wade through the evidence on record to ascertain whether petitioner has been in open, continuous, exclusive and notorious possession and occupation of the 118-square meter disputed land for 30 years at least since January 24, 1947. It is axiomatic that findings of fact by the trial court and the Court of Appeals are final and conclusive on the parties and upon this Court, which will not be reviewed or disturbed on appeal unless these findings are not supported by evidence or unless strong and cogent reasons dictate otherwise.[47] One instance when findings of fact of the appellate court may be reviewed by this Court is when, as in the case at bar, the factual findings of the Court of Appeals and the trial court are contradictory.[48]

Petitioner claims that he started occupying the disputed land in 1945. At that time, he built a *nipa* house, a small store, and a fence made of wood to delineate his area. This *nipa* house was improved in *1949* into a two-storey house. The small store was also made bigger in *1950*. The wooden fence was also changed to a fence made of hollow blocks. The two-storey house, bigger store, and hollow-block fence all stand to this day. In *1951*, petitioner planted coconut trees near his house. While the petitioner has shown continued existence of these improvements on the disputed land, they were introduced *later than January 24, 1947*. He has failed to establish the portion of the disputed land that his original *nipa* house, small store and wooden fence *actually occupied as of January 24, 1947*. In the absence of this proof, we cannot determine the land he actually possessed and occupied for thirty years which he may acquire under Sec. 48(b) of the

---

[47] *Alba Vda. de Raz, et al. v. Court of Appeals, et al.*, 314 SCRA 36 (1999), citing *First Philippine International Bank v. Court of Appeals*, 252 SCRA 259 (1996), *Atillo v. Court of Appeals*, 266 SCRA 596 (1997), *Yobido v. Court of Appeals*, 281 SCRA 1 (1997), *Guerrero v. Court of Appeals*, 285 SCRA 670 (1997), *Ditching v. Court of Appeals*, 263 SCRA 343 (1996).

[48] *Arambulo v. Court of Appeals*, 293 SCRA 567 (1998); *Jison v. Court of Appeals*, 286 SCRA 495 (1998).

Supreme Court E-Library

Public Land Act. Worthy of notice is the fact that the disputed land was surveyed, subdivided into and identified by lots only in the 1970's. Therefore, prior to the survey, it would be difficult to determine the metes and bounds of the land petitioner claims to have occupied since 1947 in the absence of specific and incontrovertible proof.

The neighbors presented by the petitioner, namely Alejandra Doria, Pacencia Artigo, and Beatriz Gusila, could not also further his cause as both Doria and Artigo stated that they started residing in Silway in 1947, without specifying whether it was on or prior to January 24, 1947, while Gusila arrived in the neighborhood in 1949. While Doria testified that there was a fence between Abejaron's and Nabasa's houses in 1947, she did not state that Abejaron's 118-square meter area was enclosed by a fence which stands to this day. This is confirmed by Geodetic Engineer Lagsub's 1984 survey plan which shows that a fence stands only on one side of the 118-square meter area, the side adjacent to Nabasa's 57-square meter portion. Again, this poses the problem of determining the area actually occupied and possessed by Abejaron at least since January 24, 1947.

Finally, as admitted by the petitioner, he has never declared the disputed land for taxation purposes. While tax receipts and tax declarations are not incontrovertible evidence of ownership, they become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property or supported by other effective proof.[49] Even the tax declarations and receipts covering his house do not bolster his case as the earliest of these was dated 1950.

Petitioner's evidence does not constitute the "well-nigh incontrovertible" evidence necessary to acquire title through possession and occupation of the disputed land at least since January 24, 1947 as required by Sec. 48(b) of the Public Land Act, as amended by R.A. 1942. The basic presumption is that

---

[49] *Director, Lands Management Bureau v. Court of Appeals*, 324 SCRA 757 (2000); *See also Director of Lands v. Santiago,* 160 SCRA 186 (1988); *Lazatin v. Court of Appeals,* 211 SCRA 129 (1992); *Municipality of Santiago, Isabela v. Court of Appeals,* 120 SCRA 734 (1983).

Supreme Court E-Library

lands of whatever classification belong to the State and evidence of a land grant must be "well-nigh incontrovertible."[50] As petitioner Abejaron has not adduced any evidence of title to the land in controversy, whether by judicial confirmation of title, or homestead, sale, or free patent, he cannot maintain an action for reconveyance.

In *De La Peña v. Court of Appeals and Herodito Tan*,[51] the petitioner filed an action for reconveyance, claiming preferential right to acquire ownership over a 3/4 hectare of land and imputing fraud and misrepresentation to respondent in securing a free patent and original certificate of title over the land in controversy. The action for reconveyance was dismissed by the trial court and the Court of Appeals. This Court affirmed the decision of the Court of Appeals, *viz*:

"It is well-settled that reconveyance is a remedy granted only to the owner of the property alleged to be erroneously titled in another's name. (*Tomas v. Court of Appeals*, G.R. No. 79328, 21 May 1990, 185 SCRA 627, 633; *Esconde v. Barlongay*, G.R. No. 67583, 31 July 1987, 152 SCRA 603, 611; *Nebrada v. Heirs of Alivio, et al.*, 104 Phil. 126 [1958]; *Director of Lands v. Register of Deeds of Rizal*, 92 Phil. 826 [1953]; *Azurin v. Quitoriano, et al.*, 81 Phil. 261 [1948]). In the case at bench, petitioner does not claim to be the owner of the disputed portion. Admittedly, what he has is only a "preferential right" to acquire ownership thereof by virtue of his actual possession since January 1947 x x x Title to alienable public lands can be established through open, continuous, and exclusive possession for at least thirty (30) years x x x Not being the owner, petitioner cannot maintain the present suit.

Persons who have not obtained title to public lands could not question the titles legally issued by the State. (*Reyes v. Rodriguez,* 62 Phil. 771, 776 [1936]) In such cases, the real party in interest is the Republic of the Philippines to whom the property would revert if it is ever established, after appropriate proceedings, that the free patent issued to the grantee is indeed vulnerable to annulment on the ground that the grantee failed to comply with the conditions imposed by the law. (See Sec. 101 of C.A. 141 [Public Land Act]; *Lucas v. Durian*, 102 Phil. 1157, 1158

---

[50] *Director of Lands, et al. v. Reyes, et al.*, 68 SCRA 177 (1975), citing *Santiago v. De los Reyes, et al.*, 61 SCRA 146 (1974).

[51] 231 SCRA 456 (1994).

Supreme Court E-Library

[1957]; *Sumail v. Judge of the Court of First Instance of Cotabato, et al.*, 96 Phil. 946, 953 [1955]). *Not being an applicant, much less a grantee, petitioner cannot ask for reconveyance.*" (italics supplied)[52]

In the more recent case of *Tankiko, et al. v. Cezar, et al.*,[53] plaintiffs filed an action for reconveyance claiming that they were the actual occupants and residents of a 126,112-square meter land which was titled to another person. The trial court dismissed the action, but the Court of Appeals reversed the dismissal. Despite the appellate court's finding that plaintiffs had no personality to file the action for reconveyance, the disputed land being part of the public domain, it exercised equity jurisdiction to avoid leaving unresolved the matter of possession of the land in dispute. On appeal to this Court, we reinstated the decision of the trial court and dismissed the action for reconveyance, *viz*:

"x x x equity is invoked only when the plaintiff, on the basis of the action filed and relief sought, has a clear right that he seeks to enforce, or that would obviously be violated if the action filed were to be dismissed for lack of standing. In the present case, respondents have no clear enforceable right, since their claim over the land in question is merely inchoate and uncertain. Admitting that they are only applicants for sales patents on the land, they are not and they do not even claim to be owners thereof.

Second, it is evident that respondents are not the real parties in interest. Because they admit that they are not the owners of the land but mere applicants for sales patents thereon, it is daylight clear that the land is public in character and that it should revert to the State. This being the case, Section 101 of the Public Land Act categorically declares that only the government may institute an action for reconveyance of ownership of a public land x x x

x x x

In the present dispute, only the State can file a suit for reconveyance of a public land. Therefore, not being the owners of the land but mere applicants for sales patents thereon, respondents have no personality to file the suit. Neither will they be directly affected by the judgment in such suit.

---

[52] *Id.*, pp. 461-462.

[53] 302 SCRA 559 (1999).

Supreme Court E-Library

x x x

Clearly, a suit filed by a person who is not a party in interest must be dismissed. Thus, in *Lucas v. Durian*, 102 Phil. 1157, September 23, 1957, the Court affirmed the dismissal of a Complaint filed by a party who alleged that the patent was obtained by fraudulent means and consequently, prayed for the annulment of said patent and the cancellation of a certificate of title. The Court declared that the proper party to bring the action was the government, to which the property would revert."[54]

Similarly, as petitioner Abejaron has failed to show his title to the disputed land, he is not the proper party to file an action for reconveyance that would result in the reversion of the land to the government. It is the Solicitor General, on behalf of the government, who is by law mandated to institute an action for reversion.[55] He has the specific power and function to "represent the Government in all land registration and related proceedings" and to "institute actions for the reversion to the Government of lands of the public domain and improvements thereon as well as lands held in violation of the Constitution."[56] Since respondent Nabasa's Free Patent and Original Certificate of Title originated from a grant by the government, their cancellation is a matter between the grantor and the grantee.[57]

Having resolved that petitioner Abejaron does not have legal standing to sue and is not the real party in interest, we deem it unnecessary to resolve the question of fraud and the other issues raised in the petition. These shall be timely for adjudication if a proper suit is filed by the Solicitor General in the future.

WHEREFORE, the petition is *DENIED* and the impugned decision of the Court of Appeals is *AFFIRMED*. The Complaint filed in Civil Case No. 2492 before the Regional Trial Court of South Cotabato, Branch 1, is *DISMISSED*. No costs.

---

[54] *Id.*, pp. 567, 569-570.

[55] *Spouses De Ocampo, et al. v. Arlos, et al.*, G.R. No. 135527, October 19, 2000.

[56] Sec. 35(5), Chapter XII, Title III, Book IV, Administrative Code of 1987.

[57] *Spouses De Ocampo, et al. v. Arlos, et al., supra.*

Supreme Court E-Library

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, Pardo, and *Ynares-Santiago, JJ.,* concur.

EN BANC

[G.R. No. 109666. June 20, 2001]

ROGERIO R. OLAGUER, ERNESTO S. SALVADOR and IRMA R. FUENTES, *petitioners, vs.* **HON. EUFEMIO DOMINGO, in his capacity as Chairman, HON. ROGELIO B. ESPIRITU and HON. SOFRONIO URSAL, as Commissioners, EMMA M. ESPINA, in her capacity as Director, all of the Commission on Audit, and LAKAMBINI RAZON, in her capacity as Resident Auditor for National Home Mortgage Finance Corporation,** *respondents.*

SYNOPSIS

The Sapang Palay Community Development Foundation, Inc. (SPCDFI) applied with the National Home Mortgage Finance Corporation (NHMFC) for a Purchase Commitment Line of ₱91,647,661.90 to cover various Community Mortgage projects in its pipeline which includes an application for a loan of ₱34,000,000.00 by the ALPRAC – Alyansa ng Maka-Maralitang Asosasyon at Kapatirang Organisasyon (AMAKO) Project in Angeles City that covers the same land formerly offered by the Severino H. Gonzales, Jr. Construction Co. Inc. However, it was twice not acted upon by the NHMFC's Accreditation and Project Evaluation Department (APED) after finding that the documents submitted were incomplete. On September 28, 1989, the Task Force on Community Mortgage Program (CMP) which was later renamed as Community Mortgage Management Office (CMMO) was created within the NHMFC. Petitioner Rogerio R. Olaguer was appointed