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Proceso, Jr. and Andrew, did not question the execution of the subject deed of sale made by their mother to Bobby.[51] These incidents can but only lead to the conclusion that they were well-aware of the subject transaction and yet only pursued their claim 14 years after the sale was executed.

Due to the above-stated reasons, Bobby's petition in **G.R. No. 171904** is hereby granted.

WHEREFORE, the Court hereby (*a*) **GRANTS** the petition of Bobby Tan in G.R. No. 171904; and (*b*) **DENIES** the petition of Grace Andrade, Charity A. Santiago, Henry Andrade, Andrew Andrade, Jasmin Blaza, Miriam Rose Andrade, and Joseph Andrade in G.R. No. 172017. Accordingly, the Decision dated July 26, 2005 and Resolution dated March 3, 2006 of the Court of Appeals in CA-G.R. CV No. 71987 are hereby **REVERSED** and **SET ASIDE**, and the April 6, 2001 Decision of the Regional Trial Court of Cebu City, Branch 19 in Civil Case No. CEB 20969 is **REINSTATED.**

SO ORDERED.

Carpio (Chairperson), Brion, del Castillo, and *Perez, JJ.*, concur.

SECOND DIVISION

[G.R. No. 175685. August 7, 2013]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **ANGELES BELLATE, and SPOUSES JESUS CABANTO and MARIETA JUANERIO,** *respondents.*

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[51] *Rollo* (G.R. No. 171904), p. 62; *rollo* (G.R. No. 172017) p. 62.

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SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; FREE PATENT; CERTIFICATE OF TITLE ISSUED PURSUANT TO A FREE PATENT BECOMES INDEFEASIBLE AFTER ONE YEAR FROM THE DATE OF ISSUANCE. —** The certificate of title issued pursuant to any grant or patent involving public lands is as conclusive and indefeasible as any other certificate of title issued to private lands in the ordinary or cadastral registration proceedings. It is not subject to collateral attack. Though the certificate of title is conclusive and indefeasible, however, Section 91 of Commonwealth Act No. 141 (The Public Land Act) provides for the cancellation of the concession, title or permit granted for any false statement in the application or omission of facts in the application. Once a patent is registered and the corresponding certificate of title is issued, the land covered by it ceases to be part of the public domain and becomes private property, and the Torrens Title issued pursuant to the patent becomes indefeasible upon the expiration of one year from the date of issuance of such patent.

2. **ID.; ID.; ID.; ID.; EXCEPTION; EVEN AFTER THE LAPSE OF ONE YEAR, THE STATE MAY STILL FILE AN ACTION FOR REVERSION BASED ON FRAUD IN THE APPLICATION. —** [A]s held in *The Director of Lands v. De Luna, et al.*, even after the lapse of one year, the State may still bring an action under Section 101 of Commonwealth Act No. 141 for the reversion to the public domain of land which has been fraudulently granted to private individuals. The burden of proof rests on the party who, as determined by the pleadings or the nature of the case, asserts the affirmative of an issue. In other words, the Republic has the burden to prove that Angeles committed fraud in his application for free patent.

3. **ID.; ID.; ID.; ID.; CIRCUMSTANCES IN CASE AT BAR SHOW THAT A PARTY DID NOT COMMIT FRAUD IN HIS APPLICATION FOR FREE PATENT WHICH WOULD WARRANT THE ANNULMENT OF GRANTED FREE PATENT AND TITLE. —** Based on this report, Eusebia was the original occupant of the 27,930-square-meter parcel of land which was subdivided into different lot numbers. Upon Eusebia's death, her heirs occupied the different portions of the land. Among the heirs who occupied it were Angeles, who

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was Eusebia's grandson, and Enriquita, who was Eusebia's great-granddaughter. The report also shows that Angeles constructed his house in a portion of the land as early as 1948. That portion is now known as Lot No. 2624. Conchita, who was Enriquita's mother and Eusebia's granddaughter, constructed a house on a different portion of Eusebia's land in 1965 or 17 years after Angeles constructed her own house. The report also shows that Eusebia's heirs did not formally partition the land among themselves. They merely constructed their respective houses on the land. Simply put, Angeles did not commit fraud in his application for free patent. The report is clear that he applied for free patent with respect to Lot No. 2624 only, not for Eusebia's entire land. It is the same land where he constructed a house in 1965 or about five decades ago. Moreover, the report did not enumerate the other occupants of Lot No. 2624, the land over which Angeles was granted a free patent. In other words, Angeles answered truthfully when he said that there are no other occupants on Lot No. 2624.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Eduardo P. Tibo for respondents.

D E C I S I O N

BRION, *J.*:

Before us is a petition for review on *certiorari*[1] seeking to reverse and set aside the decision[2] dated December 9, 2005 of the Court of Appeals (*CA*) in CA-G.R. CV No. 65295. The decision denied the appeal of the Republic of the Philippines (*Republic*) from the decision of the Regional Trial Court (*RTC*) of Calbayog City, Branch 32, which dismissed the Republic's

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[1] Under Rule 45 of the Rules of Court; *rollo*, pp. 24-38.

[2] Penned by Associate Justice Ramon M. Bato, Jr., and concurred in by Associate Justice Isaias P. Dicdican and Associate Justice Apolinario D. Bruselas, Jr.; *id.* at 41-53.

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complaint for reversion of land to the mass of public domain and for the annulment of the granted free patent and title.

Factual Antecedents

Respondent Angeles Bellate[3] filed Free Patent Application (*FPA*) No. (VIII-2) 8216 over Lot No. 2624, Cad. 422 on December 28, 1975.[4] The lot has an area of 2,630 square meters and is located in *Barangay* Matobato, Calbayog City. Pursuant to the FPA, the Register of Deeds of Calbayog City issued Original Certificate of Title (*OCT*) No. 1546 on March 27, 1976 in favor of Angeles.[5]

On February 19, 1980, Enriquita Bellate-Quizan[6] filed a protest against Angeles before the Land Management Bureau (formerly, Bureau of Lands).[7] She prayed for the annulment of the FPA in favor of Angeles. She said that the FPA was obtained through fraud and misrepresentation because Angeles did not state the fact that the land had other occupants aside from him.[8]

Meanwhile, Lot No. 2624 was divided into two smaller lots, described as Lot Nos. 2624-A and 2624-B with areas of 2,130 square meters and 500 square meters, respectively.[9] Respondent Jesus Cabanto bought the smaller lot (Lot No. 2624-B) from Angeles.[10] This led to the cancellation of OCT No. 1546, and the issuance of Transfer Certificate of Title (*TCT*) No. 770 for Lot No. 2624-A, in the name of Angeles, and TCT No. 771 for Lot No. 2624-B, in the name of Cabanto.[11]

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[3] "Bellate" also known as Billate or Villate in other documents.

[4] *Rollo*, p. 41.

[5] *Id.* at 42.

[6] "Quizan" also known as Quizon in other documents.

[7] *Supra* note 5.

[8] *Ibid.*

[9] *Ibid.*

[10] *Ibid.*

[11] *Ibid.*

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Acting on Enriquita's protest, the Director of Lands ordered Supervising Land Examiner Jovencio D. Bulan to conduct a formal investigation on Lot No. 2624. He submitted a final investigation report on February 9, 1987.[12]

On the basis of this report, the Republic, through the Office of the Solicitor General, filed a case against Angeles and spouses Cabanto and Marieta Juanerio (*Juanerio*) for the reversion of land to the mass of public domain and for the annulment of the granted free patent and title with the RTC of Calbayog City, Branch 32, on March 9, 1990.[13] The Republic alleged that Angeles committed fraud and misrepresentation in securing his free patent when he stated under oath that Lot No. 2624 was not occupied by any other person, contrary to the investigation report.[14]

The respondents denied the Republic's allegations in the complaint and countered that: 1) the action is barred by prescription; 2) the title of spouses Cabanto and Juanerio had become indefeasible because they were buyers in good faith; and 3) the Republic's complaint failed to state a cause of action.[15]

During the pre-trial, the counsel of the respondents informed the RTC about the pendency of Civil Case No. 137-CC, an action for ownership and recovery of possession of Lot No. 2624-B which respondent Cabanto instituted in the RTC of Calbayog City, Branch 31, against Fideles Quizan, Eduardo Quizan, Preciosa Bellate, Constancio Cabaliza and Uldarico Pania.[16]

During trial, Enriquita testified that Eusebia Bellate was the original occupant of the 27,930-square-meter land located in *Barangay* Matobato, Calbayog City. Eusebia died on September 27, 1924. Eusebia's son, Sotero Bellate, inherited and occupied

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[12] *Ibid.*

[13] Civil Case No. 365.

[14] *Ibid.*

[15] *Ibid.*

[16] *Rollo,* p. 43.

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the land until his death on October 15, 1946. Sotero had four children, namely: Angeles, Anecito, Agustin and Conchita, all surnamed Bellate. They succeeded and occupied Eusebia's land. Sotero's two other sons, Anecito and Agustin, were already dead as of January 11, 1943 and August 15, 1975, respectively. Enriquita's mother was Conchita Bellate who died on April 10, 1976. Aside from Enriquita, Conchita had two other children, namely, Fideles and Eduardo.[17]

The RTC Ruling

In its resolution dated March 27, 1991, the RTC dismissed the complaint on the ground of *litis pendentia*.[18] The Republic appealed the case to the CA, which remanded it back to the RTC for trial on the merits.[19]

On October 7, 1996, the RTC dismissed the complaint on the premise that the land which was the subject of dispute was different from the land previously occupied by Eusebia.[20] The RTC held that if the lands were different, then there was no fraud. The RTC based its conclusion on the submitted tax declarations, and on the differences in areas and boundaries of the properties.[21]

The Republic appealed the RTC decision to the CA.

The CA Ruling

The CA did not agree with the RTC's findings on the identity of the properties, but nonetheless denied the appeal in its decision[22] dated December 9, 2005.

The CA pointed out that the identity of the properties involved was never raised in the pleadings. The CA held that Lot No.

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[17] *Id.* at 44.

[18] *Id.* at 43.

[19] *Ibid.*

[20] *Id.* at 46.

[21] *Id.* at 47.

[22] *Supra* note 2.

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2624 is part of the 27,930-square-meter lot which Eusebia previously occupied.[23] This land is now occupied by her heirs — Angeles and Enriquita, among them. Despite this finding, the CA still believed that the Republic failed to establish the existence of fraud or misrepresentation by preponderance of evidence. Based on the investigation report, the CA concluded that Angeles did not commit fraud or misrepresentation in his application for free patent since there were no findings that other persons occupied a portion of Lot No. 2624.[24] This finding led the CA to conclude that neither fraud nor misrepresentation was committed.

On January 6, 2006, the Republic filed a motion for reconsideration which the CA denied on December 12, 2006.

The Republic thus sought recourse with this Court through a petition for review on *certiorari* under Rule 45.

The Petition

The Republic raises the following issues:

First, citing *Remalante v. Tibe*,[25] the Republic argues that this petition falls within the exception to the rule that only questions of law may be raised in a petition for review on *certiorari* under Rule 45. The Republic emphasizes that the CA and the RTC had conflicting findings of fact, and that the judgment of the CA is premised on a misapprehension of facts.[26]

Second, the Republic argued that Angeles made false statements in his application which, under Section 91 of Commonwealth Act No. 141,[27] constitutes as ground for the cancellation of the

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[23] *Rollo,* pp. 15-18.

[24] *Id.* at 51.

[25] 241 Phil. 930 (1988).

[26] *Rollo,* pp. 88-89.

[27] SECTION 91. The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and **any false statements therein or omission of facts altering, changing, or modifying the consideration of the facts**

concession, title or permit that was granted. The Republic pointed out that no less than Angeles' own witness, Roberta B. Coquilla, admitted that the property applied for free patent by her father, Angeles, was occupied by Preciosa Bellate, Freddie Bellate and others.[28]

The Case for the Respondents

The respondents sought the denial of the Republic's petition for review on *certiorari* on the ground that the questions involved are not questions of law but of facts which are, as a general rule, not within the ambit of this Court in a petition for review on *certiorari* under Rule 45. [29]

The respondents argued that "[i]t is presumptuous on the part of the [Republic] to say that Jovencio Bulan stated in his report that upon his inspection, he found the houses of the heirs of Angeles Bellate standing on the land in question."[30]

The Issues

The main issues are:

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set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall *ipso facto* produce the cancellation of the concession, title, or permit granted. It shall be the duty of the Director of Lands, from time to time and whenever he may deem it advisable, to make the necessary investigations for the purpose of ascertaining whether the material facts set out in the application are true, or whether they continue to exist and are maintained and preserved in good faith, and for the purposes of such investigation, the Director of Lands is hereby empowered to issue *subpoenas* and *subpoenas duces tecum* and, if necessary, to obtain compulsory process from the courts. In every investigation made in accordance with this section, the existence of bad faith, fraud, concealment, or fraudulent and illegal modification of essential facts shall be presumed if the grantee or possessor of the land shall refuse or fail to obey a *subpoena* or *subpoena duces tecum* lawfully issued by the Director of Lands or his authorized delegates or agents, or shall refuse or fail to give direct and specific answers to pertinent questions, and on the basis of such presumption, an order of cancellation may issue without further proceedings. [italics supplied; emphasis and underscore ours]

[28] *Rollo,* p. 90.

[29] *Id.* at 100-101.

[30] *Id.* at 101.

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I. Whether or not this court may review the case under Rule 45 of the Revised Rules of Court.

II. Whether or not the respondent committed fraud or misrepresentation of facts which would warrant the cancelation of the free patent and certificate of title of the contested land.[31]

The Court's Ruling

We deny the petition for lack of merit.

The court may review the case under Rule 45 of the Revised Rules of Court.

"The jurisdiction of the Supreme Court in cases brought to it from the CA is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive."[32] In several decisions, however, the Court enumerated the exceptional circumstances when the Supreme Court may review the findings of fact of the CA.[33]

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[31] *Id.* at 82 and 100.

[32] *Remalante v. Tibe*, *supra* note 25, at 935, citing *Chan v. Court of Appeals*, No. L-27488, June 30, 1970, 33 SCRA 737.

[33] In *Remalante*, the court enumerated the following exceptions:

(1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures;

(2) when the inference made is manifestly absurd, mistaken or impossible;

(3) when there is grave abuse of discretion in the appreciation of facts;

(4) when the judgment is premised on a misapprehension of facts;

(5) when the findings of fact are conflicting;

(6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee. (*Id.* at 935-936; citations omitted)

In *Sacay v. Sandiganbayan*, 226 Phil. 497, 512 (1986), the court enumerated four more exceptions: "(7) the findings of facts of the Court of Appeals are contrary to those of the trial court; (8) said findings of facts are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; [and] (10) the finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by [the] evidence on record."

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In the present case, we agree with the Republic that the petition falls within the exceptions because the lower courts' findings of fact are conflicting.

Contrary to the respondents' claim, the case of *Fuentes v. CA*[34] is inapplicable. In *Fuentes,* the Court held that "[p]revailing jurisprudence uniformly holds that findings of facts of the trial court, particularly when affirmed by the CA, are binding upon this Court." A review of *Fuentes*, however, reveals that it is not applicable to this case. In *Fuentes,* the RTC of Ozamis City affirmed the Municipal Circuit Trial Court's findings of fact, deleting only the monetary award in favor of the private respondents therein.

In the present petition, however, the CA did not affirm the RTC's findings of facts. The RTC compared the tax declarations and differences in areas and boundaries of the two properties and held:

> Indubitably, the foregoing descriptions of the two parcels of land under Tax Dec. No. 36100 in the name of Angeles Bellate and Tax Dec. No. 24864 in the name of Eusebia Bellate demonstrates (sic) that they are two distinct and separate parcels of land. Correspondingly, **Lot No. 2624 (the property described in Tax Dec. No. 36100), subject of the Free Patent Application of Angeles Bellate and registered in Original Certificate of Title No. 1546 is not the same parcel of land claimed by Enriquita Bellate-Quizan to be that originally owned by the late Eusebia Bellate**.[35] (emphasis ours)

On the other hand, the CA observed:

> We do not however agree with the above-quoted findings of the trial court. To begin with, the identity of the two properties was never raised by the parties in their pleadings, specifically by the defendants-appellants. A perusal of the records would show that the issue raised for determination before the RTC was whether or not Angeles Bellate made false statements in his application for free patent which constitute[s] a ground for the cancellation of his

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[34] 335 Phil. 1163 (1997).

[35] *Rollo,* p. 14.

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concession. Moreover, **the final investigation report of Jovencio Bulan established the fact that Lot No. 2624 was part of the 27,930 square-meter parcel of land previously declared for taxation purposes in the name of Eusebia Bellate.** As correctly observed by the Solicitor General, it is only logical that there would be differences in the boundaries and areas after the segregation of Lot No. 2624 from the 27,930 square-meter land.[36] (emphasis ours)

While both the RTC and the CA decisions ruled in favor of the respondents, the Republic correctly observed, however, that the RTC and the CA arrived at contradicting findings of facts. The RTC's findings that Lot No. 2624 was not the same parcel of land originally owned by Eusebia cannot be reconciled with the CA's findings that Lot No. 2624 was part of the 27,930-square-meter land of Eusebia.

Moreover, the parties do not dispute the CA's findings of facts. The Republic is only assailing the CA's conclusion that Angeles did not commit fraud in her application for free patent. Therefore, this Court may review the case.

The respondent did not commit fraud or misrepresentation of facts which would warrant the cancellation of the free patent and certificate of title.

We do not agree with the Republic that Angeles committed false statement or omission of facts when he stated in the application that the land is not claimed or occupied by any other person.

The certificate of title issued pursuant to any grant or patent involving public lands is as conclusive and indefeasible as any other certificate of title issued to private lands in the ordinary or cadastral registration proceedings. It is not subject to collateral attack.[37] Though the certificate of title is conclusive and indefeasible, however, Section 91 of Commonwealth Act No.

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[36] *Id.* at 15.

[37] Peña, *Registration of Land Titles and Deeds* (2008), p. 560, citing *Lopez v. Padilla*, 150-A Phil. 391, 401 (1972).

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141 (The Public Land Act) provides for the cancellation of the concession, title or permit granted for any false statement in the application or omission of facts in the application.

Once a patent is registered and the corresponding certificate of title is issued, the land covered by it ceases to be part of the public domain and becomes private property, and the Torrens Title issued pursuant to the patent becomes indefeasible upon the expiration of one year from the date of issuance of such patent.[38] However, as held in *The Director of Lands v. De Luna, et al.*,[39] even after the lapse of one year, the State may still bring an action under Section 101[40] of Commonwealth Act No. 141 for the reversion to the public domain of land which has been fraudulently granted to private individuals.[41] The burden of proof rests on the party who, as determined by the pleadings or the nature of the case, asserts the affirmative of an issue.[42] In other words, the Republic has the burden to prove that Angeles committed fraud in his application for free patent.

In *Libudan v. Gil*,[43] we held:

> [T]he fraud must consist in an intentional omission of facts required by law to be stated in the application or a willful statement of a claim against the truth. It must show some specific acts intended to deceive and deprive another of his right. **The fraud must be actual**

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[38] *Baguio v. Republic of the Philippines*, 361 Phil. 374, 379 (1999); and Presidential Decree No. 1529, §32.

[39] 110 Phil. 28, 33 (1960).

[40] The provision reads:

> SECTION 101. All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the [Republic] of the Philippines.

[41] *The Director of Lands v. De Luna, et al., supra* note 39, citing *Republic v. Court of Appeals*, 255 SCRA 335 (1996).

[42] *P.T. Cerna Corporation v. Court of Appeals*, G.R. No. 91622, April 6, 1993, 221 SCRA 19, 25.

[43] Nos. L-21163 and L-25495, May 17, 1972, 45 SCRA 17, 27.

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and extrinsic, not merely constructive or intrinsic; the evidence thereof must be clear, convincing and more than merely preponderant, because the proceedings which are assailed as having been fraudulent are judicial proceedings which by law, are presumed to have been fair and regular. (Emphasis added)

We re-examined the investigation report[44] prepared by Jovencio Bulan — the person lawfully tasked to make an independent inspection over the disputed land. For clarity, we quote the relevant portions of the investigation report.

OCULAR INSPECTION

The undersigned Investigator made an actual inspection on the premises of the land in question, which are all located in Barangay Matobato, Calbayog City; present in the said inspection were claimant-protestants Enriquita Bellate Quizan, Dionisio Bellate, Eduardo Bellate Quizan, Freddie B. Quizan and the applicant-respondent Angeles Bellate. **The undersigned found that [the] land in question [was] occupied by the following persons:**

1. Lopez Coquilla – occupied and entered the land in question in 1952
2. **Angeles Bellate – Constructed [his] residential house in 1948**
3. Arsenio Camelon – Who failed to estimate the year he entered into the land in question
4. Jesus Cab[a]nto – Who informed the herein Investigator that he entered the land in question in 1975
5. Francisco Ilagan – Constructed his residential house in 1968
6. Alfonsa Coquilla – Constructed her residential house in 1955
7. Uldarico Pana – Constructed his residential house in 1977
8. Pablo Ilagan – Constructed his residential house now owned by Preciosa Bellate in 1980
9. Constancia Cabaliza – Failed to estimate the year [she] entered the land in question

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[44] *Rollo,* pp. 49-51.

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10. Guillermo dela Vega – Constructed his two-story house in 1963

11. Conchita Bellate – Constructed her residential house in 1965

12. Freddie B. Quizan – Entered and constructed his residential house in 1978

13. And with nine (9) coconut trees estimated to be at three (3) years old during the date of inspection and with some other fruit trees and bananas.

FINDINGS

From the foregoing observation[,] the undersigned found **that the land in question is to be partitioned among the heirs of the late Sotero Bellate, the primitive owner of the land in question:**

1. That said properties are divided by Lots 2528 with an area of 6,280 sq. meters; Lot No. 628 with an area of 2,638 sq. meters; Lot No. 272 with an area of 382 sq. meters; Lot No. 2722 with an area of 230 sq. meters; Lot No. 2723 with an area of 425 sq. meters; Lot No. 2724 with an area of 290 sq. meters; Lot No. 2725 with an area of 259 sq. meters; Lot No. 2726 with an area of 259 sq. meters; Lot No. 2726 with an area of 175 sq. meters; Lot No. 2727 with an area of 1,525 sq. meters; and finally the lot in question 2624, with an area of 2,630 sq. meters, the above-described lots could be divided equally share (sic) and share alike among the heirs of Sotero Bellate as follows:

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provided however, that the area presently occupied by Angeles Bellate where [his] house stands shall be given preference as [his] share and the area shall be determined after the physical division of the land shall have been effective.

Declaring both the claimant-protestant and the applicant-respondent as legal owner of their respective shares over the land in question and each of them to respect the ownership of the other.[45] (emphases and underscores ours)

Based on this report, Eusebia was the original occupant of the 27,930-square-meter parcel of land which was subdivided

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[45] *Id.* at 49-50.

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into different lot numbers. Upon Eusebia's death, her heirs occupied the different portions of the land. Among the heirs who occupied it were Angeles, who was Eusebia's grandson, and Enriquita, who was Eusebia's great-granddaughter. The report also shows that Angeles constructed his house in a portion of the land as early as 1948. That portion is now known as Lot No. 2624. Conchita, who was Enriquita's mother and Eusebia's granddaughter, constructed a house on a different portion of Eusebia's land in 1965 or 17 years after Angeles constructed her own house.

The report also shows that Eusebia's heirs did not formally partition the land among themselves. They merely constructed their respective houses on the land.

Simply put, Angeles did not commit fraud in his application for free patent. The report is clear that he applied for free patent with respect to Lot No. 2624 only, not for Eusebia's entire land. It is the same land where he constructed a house in 1965 or about five decades ago. Moreover, the report did not enumerate the other occupants of Lot No. 2624, the land over which Angeles was granted a free patent. In other words, Angeles answered truthfully when he said that there are no other occupants on Lot No. 2624.

WHEREFORE, premises considered, we **DENY** the petition assailing the decision of the Court of Appeals in CA-G.R. CV No. 65295 for lack of merit. No costs.

SO ORDERED.

Carpio (Chairperson), Peralta,[*] *Perez,* and *Perlas-Bernabe, JJ.,* concur.

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[*] Designated as additional member per Raffle dated March 18, 2013 vice Justice Mariano del Castillo who took no part due to prior action in the CA.