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FIRST DIVISION

[G.R. No. L-39473. April 30, 1979]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **HON. COURT OF APPEALS and ISABEL LASTIMADO,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; REVIEW OF A DECREE; ESSENTIAL ELEMENTS FOR ALLOWANCE THEREOF. — The essential elements for the allowance of the reopening or review of a decree are: (1) that the petitioner has a real and dominical right; (2) that he has been deprived thereof; (c) through fraud; (d) that the petition is filed within one year from the issuance of the decree; and (e) that the property has not as yet been transferred to an innocent purchaser.

2. ID.; ID.; ID.; ID.; FRAUD AS A GROUND; REQUISITE. — For fraud to justify the review of a degree, it must be extrinsic or collateral and the facts upon which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered. The fraud is one that affects and goes into the jurisdiction of the Court.

3. ID.; ID.; TRIAL COURT SHOULD AFFORD PETITIONER OPPORTUNITY TO PROVE ALLEGATION OF FRAUD. — It is error for the lower court to deny the petition for review of a decree of registration filed within one year from the entry of the decree, without hearing the evidence in support of the allegation and claim that actual and extrinsic fraud has been committed by the applicants. The lower court should afford the petitioner an opportunity to prove it.

4. ID.; ID.; JURISDICTION OVER CADASTRAL PROCEEDINGS; RULE. — If the allegation of the government that the land in question was inside the military reservation at the time it was claimed is true, then, it cannot be the object of any cadastral proceeding nor can it be the object of reopening under Republic Act No. 931. Similarly, if the land in question, indeed, forms part of the public forest, then, possession thereof, however long, cannot convert it into private property as it is within the exclusive

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jurisdiction of the Bureau of Forestry and beyond the power and jurisdiction of the cadastral Court to register under the Torrens System.

5. POLITICAL LAW; STATE; CANNOT BE ESTOPPED BY THE MISTAKE OF ITS OFFICIALS. — The inaction or neglect of government agencies cannot operate to bar the action by the State as it cannot be estopped by the mistake or error of its officials or agents. The State as a *persona* in law is the juridical entity, which is the source of any asserted right to ownership in land under basic Constitutional precepts, and is charged with the conversation of such patrimony.

DECISION

MELENCIO-HERRERA, *J.*:

This is a Petition for Review (Appeal) by *Certiorari* filed by the Republic of the Philippines from the Decision of the Court of Appeals promulgated on September 30, 1974 in CA-G.R. No. Sp-01504 denying the State's Petition for *Certiorari* and *Mandamus*.

Briefly, the facts of the case are as follows:

Private respondent, Isabel Lastimado, filed on September 11, 1967, in the Court of First Instance of Bataan, Branch I, a Petition for the reopening of cadastral proceedings over a portion of Lot No. 626 of the Mariveles Cadastre, consisting of 971.0569 hectares, pursuant to Republic Act No. 931, as amended by Republic Act No. 2061, docketed as Cad. Case No. 19, LRC Cad. Rec. No. 1097. In the absence of any opposition, whether from the Government or from private individuals, private respondent was allowed to present her evidence *ex-parte*. On October 14, 1967, the trial Court rendered a Decision granting the Petition and adjudicating the land in favor of private respondent. The trial Court issued an order for the issuance of a decree of registration on November 20, 1967, and on November 21, 1967, the Land Registration Commission issued Decree No. N-117573 in favor of private respondent. Eventually, Original Certificate of Title No. N-144

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was also issued in her favor. Private respondent thereafter subdivided the land into ten lots, and the corresponding titles. Transfer Certificates of Title Nos. 18905 to 18914 inclusive, were issued by the Register of Deeds.

On June 3, 1968, or within one year from the entry of the decree of registration, petitioner filed a Petition for Review pursuant to Sec. 38, Act No. 496, on the ground of fraud alleging that during the period of alleged adverse possession by private respondent, said parcel of land was part of the U.S. Military Reservation in Bataan, which was formally turned over to the Republic of the Philippines only on December 22, 1965, and that the same is inside the public forest of Mariveles, Bataan and, therefore, not subject to disposition or acquisition under the Public Land Law. Respondent field an Opposition thereto, which was considered by the trial Court, as a Motion to Dismiss, and on December 20, 1968, said Court (Judge Tito V. Tizon, presiding) issued an Order dismissing the Petition for Review mainly on the ground that the Solicitor General had failed to file opposition to the original Petition for reopening of the cadastral proceedings and was, therefore, estopped from questioning the decree of registration ordered issued therein. On January 28, 1969, petitioner moved for reconsideration, which was denied by the trial Court in its Order dated May 20, 1969, for lack of merit.

Petitioner seasonably filed a Notice of Appeal and a Record on Appeal, which was objected to by private respondent. On July 15, 1972, or three years later,* the trial Court (Judge Abraham P. Vera, presiding) refused to give due course to the appeal. Petitioner filed a Motion for Reconsideration but the trial Court denied it in its Order of October 14, 1972 on the ground that the proper remedy of petitioner was a *Certiorari* petition, not an ordinary appeal and that the Order sought to be appealed

* The delay was due to the fact that soon after the filing of the Record on Appeal the entire records of the case were transmitted to the Department of Justice in connection with the administrative investigation of Judge Tito V. Tizon.

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from had long become final and executory as petitioner's Motion for Reconsideration was *pro-forma* and did not suspend the running of the reglementary period of appeal.

On November 9, 1972, petitioner filed a Petition for *Certiorari* and *Mandamus* with the Court of Appeals claiming that the trial Court gravely abused its discretion, amounting to lack of jurisdiction when, without the benefit of hearing, it summarily dismissed the Petition for Review; and since said Petition raised certain issues of fact which cannot be decided except in a trial on the merits, the dismissal of the Petition on the basis of private respondent's Opposition, considered as a Motion to Dismiss, constituted a denial of due process of law. Petitioner then prayed that the Order of the trial Court, dated December 20, 1968 dismissing the Petition for Review, be declared null and void, and that said trial Court be directed to give due course to the Petition for Review; or, in the alternative, to give due course to petitioner's appeal.

On September 30, 1974, the Court of Appeals upheld the trial Court's dismissal of the Petition for Review stating:

"x x x We cannot find any allegation in the petition for review which shows that private respondent had committed fraud against petitioner. Its representations and officials were duly notified of private respondent's petition for reopening and registration of title in her name. In said petition, the technical descriptions of the portion of Lot No. 626 of the Mariveles (Bataan) Cadastre, subject-matter of the petition were expressly stated, the boundaries, specifically delineated. The alleged ground that the land forms part of a forest land exists at the time petitioner was duly notified of said petition. Failure to file opposition is in effect, an admission that the petition is actually not part of a forest land. Indubitably, therefore, no justifiable reason exists for the annulment of the Order, dated December 20, 1968 (Annex D-Petition) of the lower court dismissing herein petitioner's petition for review of the decree issued in favor of private respondent Lastimado."[1]

The Court of Appeals then disposed as follows:

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[1] pp. 18-19 of CA Decision at pp. 54-55, *Rollo*.

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"WHEREFORE, finding that the respondent Judge has not committed any grave abuse of discretion amounting to lack of jurisdiction in the issuance of an Order, dated December 20, 1968 (Annex D-Petition) dismissing herein petitioner's petition for review, the present petition for review is hereby denied.

The issuance of the writ of *mandamus* as prayed for in the petition is no longer necessary as this Court, in the exercise of its appellate jurisdiction and authority to supervise orderly administration of justice, has already resolved on the merits the question whether or not the dismissal of the petition for review had been done with grave abuse of discretion amounting to lack of jurisdiction."[2]

From this Decision, petitioner filed the present Petition for Review (Appeal) by *Certiorari* assigning the following errors to the Court of Appeals and to the trial Court:

1. The Lower Court as well us the Court of Appeals erred in finding that there can be possession, even for the purpose of claiming title, of land which at the time of possession is subject to a military reservation.

2. The Lower Court as well as the Court of Appeals erred in finding that such land which is subject to a government reservation, may appropriately be the subject of cadastral proceedings, and hence, also of a petition to reopen cadastral proceedings.

3. The Lower Court as well as the Court of Appeals erred in finding that a parcel of land which is part of the public forest is susceptible of occupation and registration in favor of private individual.

4. The Lower Court as well as the Court of Appeals erred in not finding that the Republic of the Philippines is not estopped from questioning the decree of registration and the title issued pursuant thereto in favor of respondent Lastimado over the parcel of land in question.

5. The Lower Court erred in dismissing the petition for review of the Republic of the Philippines.

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[2] p. 19 CA Decision at p. 55, *Rollo*.

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6. The Court of Appeals erred in denying Petitioner's petition for *certiorari* and *mandamus*.

Section 38 of the Land Registration Act (Act 496) provides:

"Section 38. Decree of registration, and remedies after entry of decree.

If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice of citation, or included in the general description 'To all whom it may concern.' Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest. x x x."[3]

The essential elements for the allowance of the reopening or review of a decree are: a) that the petitioner has a real and dominical right; b) that he has been deprived thereof; c) through fraud; d) that the petition is filed within one year from the issuance of the decree; and e) that the property has not as yet been transferred to an innocent purchaser.[4]

However, for fraud to justify the review of a decree, it must be extrinsic or collateral and the facts upon which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered.[5] The following

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[3] As amended by Sec. 3, Act No. 3621; and Sec. 1, Act No. 3630.

[4] *Libudan vs. Gil*, 45 SCRA 17 (1972).

[5] *Ibid.*

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ruling spells out the difference between extrinsic and intrinsic fraud:

"Extrinsic or collateral fraud, as distinguished from intrinsic fraud connotes any fraudulent scheme executed by a prevailing litigant "outside the trial of a case against the defeated party, or his agents, attorneys or witnesses, whereby said defeated party is prevented from presenting fully and fairly his side of the case." But intrinsic fraud takes the form of "acts of a party in a litigation during the trial, such as the use of forged instruments or perjured testimony, which did not affect the present action of the case, but did prevent a fair and just determination of the case."[6]

The fraud is one that affects and goes into the jurisdiction of the Court.[7]

In its Petition for Review filed before the trial Court, petitioner alleged that fraud was committed by private respondent when she misrepresented that she and her predecessors-in-interest had been in possession of the land publicly, peacefully, exclusively and adversely against the whole world as owner for more than forty years when, in fact, the subject land was inside the former U.S. Military Reservation, which was formally turned over to the Republic of the Philippines only on December 22, 1965, and that she likewise contended that her rights, as derived from the original and primitive occupants of the land in question, are capable of judicial confirmation under existing laws, when the truth is, said parcel of land is within the public forest of Mariveles, Bataan, and is not subject to disposition or acquisition by private persons under the Public Land Law.

The trial Court ruled, and was upheld by the Court of Appeals, that no fraud was committed by private respondent, which deprived petitioner of its day in Court as there was no showing that she was aware of the facts alleged by the Government, so that she could not have suppressed them with intent to deceive.

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[6] *Ibid.*

[7] *De Almeda vs. Cruz*, 84 Phil. 636, 641, 643 (1949); *Sterling Investment Corporation vs. Ruiz*, 30 SCRA 318 (1969).

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The trial Court also noted that petitioner had failed to file an opposition to the reopening of the cadastral proceedings despite notices sent not only to the Solicitor General as required by Republic Act No. 931, but to the Bureau of Lands and the Bureau of Forestry as well. It then concluded that "the remedy granted by Section 38 of the Land Registration Act is designed to give relief to victims of fraud, not to those who are victims of their own neglect, inaction or carelessness, especially when no attempt is ever made to excuse or justify the neglect." With the foregoing as the essential basis, the trial Court dismissed the Petition for Review.

We find reversible error. Although there was an agreement by the parties to submit for resolution the Opposition to the Petition for Review, which was treated as a motion to dismiss, the trial Court, in the exercise of sound judicial discretion, should not have dismissed the Petition outright but should have afforded petitioner an opportunity to present evidence in support of the facts alleged to constitute actual and extrinsic fraud committed by private respondent. Thus, in the case of *Republic vs. Sioson, et al.*,[8] it was held that "the action of the lower Court in denying the petition for review of a decree of registration filed within one year from entry of the decree, without hearing the evidence in support of the allegation and claim that actual and extrinsic fraud upon which the petition is predicated, is held to be in error, because the lower Court should have afforded the petitioner an opportunity to prove it."

If the allegation of petitioner that the land in question was inside the military reservation at the time it was claimed is true, then, it cannot be the object of any cadastral proceeding nor can it be the object of reopening under Republic Act No. 931.[9] Similarly, if the land in question, indeed, forms part of the public forest, then, possession thereof, however long, cannot convert it into private property as it is within the exclusive jurisdiction of the Bureau of Forestry and beyond the power

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[8] 9 SCRA 533 (1953).

[9] *Republic vs. Marcos*, 52 SCRA 238 (1973).

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and jurisdiction of the cadastral Court to register under the Torrens System.[10]

Even assuming that the government agencies can be faulted for inaction and neglect (although the Solicitor General claims that it received no notice), yet, the same cannot operate to bar action by the State as it cannot be estopped by the mistake or error of its officials or agents.[11] Further, we cannot lose sight of the cardinal consideration that "the State as *persona* in law is the juridical entity, which is the source of any asserted right to ownership in land" under basic Constitutional precepts, and that it is moreover charged with the conservation of such patrimony.[12]

WHEREFORE, the Decision of the Court of Appeals dated September 30, 1974, dismissing the Petition for *Certiorari* and *Mandamus* filed before it, as well as the Order of the Court of First Instance of Bataan (Branch I) dated December 20, 1968, dismissing the Petition for Review, are hereby set aside and the records of this case hereby remanded to the latter Court for further proceedings to enable petitioner to present evidence in support of its Petition for Review.

No pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Fernandez, Guerrero, and *De Castro, JJ.,* concur.

Makasiar, J., took no part.

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[10] *Director of Lands vs. Abanzado,* 65 SCRA 5 (1975).

[11] *Republic vs. Marcos, supra.*

[12] *Ibid.*