Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FRANCISCA TAAR, JOAQUINA TAAR, LUCIA TAAR and HEIRS OF OSCAR L. GALO Petitioners, -versus- **CLAUDIO LAWAN, MARCELINO L. GALO, ARTEMIO ABARQUEZ, AUGUSTO B. LAWAN, ADOLFO L. GALO and EDUARDO R. ERMITA** Respondents.	**G.R. No. 190922** Present: VELASCO, JR., *J., Chairperson,* BERSAMIN, LEONEN, MARTIRES,* and GESMUNDO, *JJ.* **Promulgated:** October 11, 2017

x----------x

DECISION

LEONEN, *J.*:

A judgment approving the subdivision of a parcel of land does not preclude other parties with a better right from instituting free patent applications over it. Entitlement to agricultural lands of the public domain requires a clear showing of compliance with the provisions of Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act.

Before this Court is a Petition for Review on Certiorari[1] assailing the Resolutions dated July 20, 2009[2] and January 15, 2010[3] of the Court of

---

* On official leave.
1 *Rollo*, pp. 10–22.

Appeals in CA-G.R. SP No. 109390. These assailed judgments dismissed outright the Petition for Certiorari filed by herein petitioners Francisca Taar (Francisca), Joaquina Taar (Joaquina), Lucia Taar (Lucia), and the Heirs of Oscar L. Galo[4] for being an inappropriate remedy to annul the October 20, 2008 Decision and the March 26, 2009 Resolution of the Office of the President.

The present case involves two (2) free patent applications[5] over a 71,014-square-meter parcel of land (the Property) located in Barangay Parsolingan, Genova, Tarlac.[6]

Narcisa Taar (Narcisa), Alipio Duenas (Alipio), Fortunata Duenas (Fortunata), and Pantaleon Taar (Pantaleon) inherited two (2) vast tracts of land situated in Tarlac. One (1) parcel of land was adjudicated exclusively in favor of Pantaleon while the other parcel of land was given to Pantaleon, Narcisa, Alipio, and Fortunata.[7] Narcisa sold her share to Spouses Primitivo T. Adaoag and Pilar Tandoc (the Adaoag Spouses) and to Spouses Ignacio Gragasin and Genoveva Adaoag (the Gragasin Spouses).[8]

Later, Pantaleon, Alipio, Fortunata, the Adaoag Spouses, and the Gragasin Spouses executed an agreement to partition the second parcel of land. This agreement was approved by the Court of First Instance of Tarlac in its February 18, 1948 Decision.[9]

Pantaleon, Alipio, and Fortunata were the predecessors-in-interest of Francisca,[10] Joaquina, Lucia, and Oscar L. Galo.[11]

Based on the February 18, 1948 Decision, petitioners prepared a subdivision plan[12] over the Property in 2000.[13] The subdivision plan, denominated as Subdivision Plan No. Ccs-03-000964-D, was approved on February 6, 2001.[14] Petitioners then applied for free patents over the Property.[15]

---

2 Id. at 23–25. The Resolution was penned by then Associate Justice Estela M. Perlas-Bernabe and concurred in by Associate Justices Mario L. Guariña III and Apolinario D. Bruselas, Jr. of the Thirteenth Division, Court of Appeals, Manila.

3 Id. at 33. The Resolution was penned by then Associate Justice Estela M. Perlas-Bernabe and concurred in by Associate Justices Mario L. Guariña III and Apolinario D. Bruselas, Jr. of the Former Thirteenth Division, Court of Appeals, Manila.

4 The Heirs of Oscar Galo were not named in the petition or in any of the annexes.

5 *Rollo*, pp. 108–109.

6 Id. at 77.

7 Id. at 34–35, February 18, 1948 Decision of the Court of First Instance.

8 Id. at 35.

9 Id. at 34–37. The Decision, docketed as Civil Case No. 140, was penned by Judge Francisco E. Jose.

10 Id. at 69.

11 Id. at 34.

12 Id. at 35 and 38–39.

13 Id. at 271, Petitioners' Memorandum.

14 Id.

15 Id. at 77, May 29, 2002 Order of the DENR.

On March 16, 2001, Claudio Lawan (Claudio), Marcelino M. Galo (Marcelino), Artemio Abarquez (Artemio), Augusto B. Lawan (Augusto), and Adolfo L. Galo (herein private respondents) filed a verified protest[16] alleging that their predecessors-in-interest had been in "actual, physical, exclusive[,] and notorious possession and occupation of the land . . . since 1948."[17] Petitioners countered that private respondents occupied the property as tenants.[18]

The Regional Office of the Department of Environment and Natural Resources in Region III conducted an ocular inspection of the Property and required the parties to submit their respective documentary evidence.[19]

In its May 29, 2002 Order,[20] Department of Environment and Natural Resources Regional Executive Director for Region III Leonardo R. Sibbaluca (Director Sibbaluca) found that private respondents were the actual occupants of the Property. There were no improvements or other traces of possession by petitioners. Based on his findings, Director Sibbaluca cancelled Subdivision Plan No. Ccs-03-000964-D and denied petitioners' free patent applications.[21]

Neither of the parties interposed an appeal or moved for reconsideration.[22] Hence, Director Sibbaluca's May 29, 2002 Order attained finality.[23]

Later that year, private respondents filed their free patent applications before the Tarlac Community Environment and Natural Resources Office.[24] Their applications covered the Property, which was also claimed by petitioners.[25]

On January 23, 2004, private respondents' applications were approved.[26] The corresponding free patents[27] and certificates of title denominated as "Katibayan ng Orihinal na Titulo" were then issued in their favor.[28]

---

16 Id. at 108–109, Private Respondents' Comment.
17 Id. at 77, May 29, 2002 Order of the DENR.
18 Id. at 79, May 29, 2002 Order of the DENR.
19 Id. at 109, Private Respondents' Comment.
20 Id. at 77–80.
21 Id.
22 Id. at 272, Petitioners' Memorandum.
23 Id. at 123, Certificate of Finality dated September 23, 2002.
24 Id. at 109, Private Respondents' Comment.
25 Id. at 272, Petitioners' Memorandum.
26 Id. at 109–110, Private Respondents' Comment.
27 Id.
28 Id. at 234, OSG's Comment.

On July 29, 2004,[29] petitioners filed before the Secretary of the Department of Environment and Natural Resources[30] a Verified Petition[31] to annul Director Sibbaluca's May 29, 2002 Order on the ground of extrinsic fraud and to cancel private respondents' free patents and certificates of title.[32] Petitioners alleged that they were deprived of due process.[33]

The Department of Environment and Natural Resources Undersecretary for Legal Affairs formed an investigating team[34] to ascertain the actual occupants of the Property.[35] During the ocular inspection, the investigating team found "concrete residential houses of [petitioners] with fences, fruit trees[,] and coconut trees" and "other houses . . . owned [by] relatives and friends of the parties."[36] The investigating team gathered documentary evidence, discovered several leasehold contracts between the parties,[37] and saw rice fields cultivated by Augusto, Marcelino, Claudio, Artemio Tabuyo, Artemio Abarquez, and Romy Tabuyo.[38] Based on their findings, the team concluded that petitioners were entitled to the Property.[39]

In his Decision[40] dated January 18, 2007, then Secretary of Department of Environment and Natural Resources Angelo T. Reyes (Secretary Reyes) adopted the findings of the investigating team and ordered the cancellation of the free patents and the certificates of title issued in favor of private respondents.

Private respondents moved for reconsideration but their Motion was denied in the June 14, 2007 Order.[41] Hence, they appealed Secretary Reyes' January 18, 2007 Decision before the Office of the President.[42]

In its October 20, 2008 Decision,[43] the Office of the President, through then Executive Secretary Eduardo R. Ermita (Executive Secretary Ermita), reversed Secretary Reyes' January 18, 2007 Decision and reinstated Director Sibbaluca's May 29, 2002 Order. The Office of the President held that Secretary Reyes erred in reversing Director Sibbaluca's May 29, 2002 Order as it had already attained finality.[44]

---

29 Id. at 110, Private Respondents' Comment.
30 Id. at 272, Petitioners' Memorandum.
31 Id. at 124–130.
32 Id. at 124, Verified Petition.
33 Id. at 126, Verified Petition.
34 Id. at 68.
35 Id. at 272.
36 Id. at 72, Investigation Report dated October 4, 2006.
37 Id. at 73–75, Investigation Report dated October 4, 2006.
38 Id. at 72, Investigation Report dated October 4, 2006.
39 Id. at 75–76, Investigation Report dated October 4, 2006.
40 Id. at 55–67.
41 Id. at 110, Comment.
42 Id.
43 Id. at 81–84.
44 Id. at 83.

Petitioners moved for reconsideration but their Motion was denied in the Resolution[45] dated March 26, 2009.

Petitioners filed a petition for certiorari[46] against private respondents and Executive Secretary Ermita before the Court of Appeals.[47] They alleged that the Office of the President committed grave abuse of discretion in reinstating Director Sibbaluca's May 29, 2002 Order considering that their predecessors-in-interest had been declared *ipso jure* owners of the Property as early as 1948 by the Court of First Instance of Tarlac.[48]

In its July 20, 2009 Resolution,[49] the Court of Appeals dismissed the petition for certiorari outright for being an inappropriate remedy. The Court of Appeals noted that an appeal could have been taken from the Decision and the Resolution of the Office of the President.[50] Instead of filing an original action for certiorari, they should have filed a petition for review under Rule 43 of the Rules of Court.[51]

Petitioners moved for reconsideration but their Motion was denied for lack of merit in the Resolution[52] dated January 15, 2010.

On March 4, 2010, petitioners[53] filed a Petition for Review on Certiorari[54] before this Court assailing the Resolutions dated July 20, 2009 and January 15, 2010 of the Court of Appeals.

In its April 5, 2010 Resolution,[55] this Court required private and public respondents to comment on the petition for review.

Private respondents filed their Comment[56] on June 17, 2010 while public respondent Executive Secretary Ermita, through the Office of the Solicitor General, filed his Comment[57] on August 15, 2011. Petitioners then filed their Consolidated Reply on December 5, 2011.[58]

---

45 Id. at 85–86.
46 Id. at 40–53.
47 Id. at 273.
48 Id. at 45–50.
49 Id. at 23–25.
50 Id. at 24.
51 Id.
52 Id. at 33.
53 Id. at 20. The Heirs of Oscar Galo were represented by Adela Galo.
54 Id. at 10–22.
55 Id. at 87–88.
56 Id. at 107–118.
57 Id. at 231–247.
58 Id. at 258–265.

In its January 23, 2013 Resolution,[59] this Court gave due course to the Petition and required the parties to submit their respective memoranda.

Petitioners filed their Memorandum[60] on April 12, 2013. On the other hand, the Office of the Solicitor General manifested that it would no longer file a memorandum considering that it had exhaustively discussed its arguments in the Comment.[61] Private respondents filed their Memorandum on July 19, 2013.[62]

Petitioners claim that the Court of Appeals erred in dismissing their petition for certiorari and that the Office of the President acted with grave abuse of discretion in reinstating Director Sibbaluca's May 29, 2002 Order. Petitioners insist that their predecessors-in-interest were declared *ipso jure* owners of the Property by the Court of First Instance of Tarlac in its February 18, 1948 Decision.[63] According to petitioners, the Court of First Instance recognized that their predecessors-in-interest "possessed, occupied[,] and cultivated the . . . lots for more than thirty (30) years since 1915."[64] Therefore, the principle of *res judicata* bars private respondents from asserting title to the Property.[65]

Petitioners add that private respondents procured their free patents through fraud and misrepresentation.[66] They pray for the cancellation of private respondents' free patents and certificates of title.[67]

On the other hand, private respondents assert that the Court of Appeals correctly dismissed the petition for certiorari. They claim that petitioners filed their petition "after the lapse of more than two (2) months from the date they received the adverse decision of the Office of the President."[68] Moreover, they allege that petitioners raised errors of judgment, not errors of jurisdiction.[69]

Private respondents contend that they are not bound by the February 18, 1948 Decision of the Court of First Instance. They assert that the principle of *res judicata* does not apply because there is no identity of parties and subject matter.[70] The Office of the Solicitor General shares this view and points out that the February 18, 1948 Decision of the Court of First

---

59 Id. at 269–270.
60 Id. at 271–286.
61 Id. at 287–291.
62 Id. at 303–316.
63 Id. at 15–20.
64 Id. at 277.
65 Id. at 278–281.
66 Id. at 281–284.
67 Id. at 285–286.
68 Id. at 113.
69 Id. at 112–114
70 Id. at 114–115.

Instance simply adopted an agreement of partition, which arose out of a dispute "between and among petitioners' . . . predecessors-in-[interest]."[71] Private respondents insist that petitioners are bound by Director Sibbaluca's May 29, 2002 Order, which had already attained finality.[72]

The present case presents the following issues for this Court's resolution:

First, whether or not the Court of Appeals erred in dismissing the petition for certiorari filed by Francisca Taar, Joaquina Taar, Lucia Taar, and the Heirs of Oscar L. Galo;[73]

Second, whether or not the February 18, 1948 Decision of the Court of First Instance bars Claudio Lawan, Marcelino L. Galo, Artemio Abarquez, Augusto B. Lawan, and Adolfo L. Galo from applying for free patents over the Property;[74]

Lastly, whether or not the free patents and certificates of title issued in favor of Claudio Lawan, Marcelino L. Galo, Artemio Abarquez, Augusto B. Lawan, and Adolfo L. Galo are valid and were secured through fraud and misrepresentation.[75]

The Petition is denied.

I

A petition for certiorari under Rule 65 of the Rules of Court is an extraordinary remedy.[76] Its scope of review is narrow, limited only to errors of jurisdiction. Errors of judgment can only be reviewed through an appeal. In *Fernando v. Vasquez*,[77] this Court made a general distinction between errors of jurisdiction and errors of judgment, thus:

> An error of judgment is one which the court may commit in the exercise of its jurisdiction. An error of jurisdiction renders an order or judgment void or voidable. Errors of jurisdiction are reviewable on certiorari; errors of judgment only by appeal. Let us not lose sight of the true function of the writ of certiorari — "to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of

---

71 Id. at 243.
72 Id. at 115–117.
73 Id. at 278.
74 Id.
75 Id.
76 *Fernando v. Vasquez*, 142 Phil. 266, 271 (1970) [Per J. Sanchez, First Division] citing *Herrera v. Barretto*, 25 Phil. 245 (1913) [Per J. Moreland, First Division].
77 142 Phil. 266 (1970) [Per J. Sanchez, First Division].

> discretion amounting to excess of jurisdiction." And, abuse of discretion must be so grave and patent to justify the issuance of the writ.[78] (Citation omitted)

Errors of judgment may involve a court's appreciation of the facts and conclusions of law drawn from such facts.[79] If a court acts within its jurisdiction, then "any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment[.]"[80] In *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*:[81]

> *The supervisory jurisdiction of a court over the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court — on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision.* Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of certiorari. Where the error is not one of jurisdiction, but of an error of law or fact — a mistake of judgment — appeal is the remedy.[82] (Emphasis supplied, citations omitted)

On the other hand, errors of jurisdiction are those where the act or acts complained of were done without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.[83] *Milwaukee Industries Corporation v. Court of Tax Appeals*[84] discussed these concepts; thus:

> *Without jurisdiction* denotes that the tribunal, board, or officer acted with absolute lack of authority. There is *excess of jurisdiction* when the public respondent exceeds its power or acts without any statutory authority. *Grave abuse of discretion* connotes such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction; otherwise stated, power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.[85] (Emphasis in the original)

The mere allegation of grave abuse of discretion in a petition for certiorari does not mean that the petition will automatically be given due course. The general invocation of grave abuse of discretion is insufficient. Parties must satisfy other exacting requirements under the Rules of Court.

---

78 Id. at 271.
79 *Suyat, Jr. v. Torres*, 484 Phil. 230, 240 (2004) [Per J. Callejo, Sr., Second Division].
80 Id.
81 479 Phil. 768 (2004) [Per J. Panganiban, Third Division].
82 Id. at 780.
83 *Biñan Rural Bank v. Carlos*, 459 Phil. 416, 422 (2015) [Per J. Brion, Second Division].
84 650 Phil. 429 (2010) [Per J. Mendoza, Second Division].
85 Id. at 435–436.

A petition for certiorari brought under Rule 65, Section 1 of the Rules of Court is specifically required to have "no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law." Ordinarily, if an appeal can be taken from a judgment or order, then the remedy of certiorari will not lie. The mere possibility of delay arising from an appeal does not warrant direct recourse to a petition for certiorari.[86]

However, there are exceptions to this rule. For instance, the availability of an appeal does not necessarily proscribe the institution of a petition for certiorari if it is shown that an appeal is "inadequate, slow, insufficient and will not promptly relieve a party from the injurious effects of the order complained of."[87] In *Silvestre v. Torres*:[88]

> [T]he availability of the ordinary recourse of appeal does not constitute sufficient ground to prevent a party from making use of the extraordinary remedy of certiorari; but it is necessary, besides, that the ordinary appeal be an *adequate remedy*, that is, "*a remedy which is equally beneficial, speedy and sufficient, not merely a remedy which at some time in the future will bring about a revival of the judgment of the lower court complained of in the certiorari proceeding, but a remedy which will promptly relieve the petitioner from the injurious effects of that judgment and the acts of the inferior court or tribunal*[.]"[89] (Emphasis supplied)

This was reiterated later in *Jaca v. Davao Lumber Company*,[90] where this Court underscored the standard in determining the propriety of a petition for certiorari, thus:

> The availability of the ordinary course of appeal does not constitute sufficient ground to prevent a party from making use of the extraordinary remedy of certiorari where the appeal is not an adequate remedy or equally beneficial, speedy and sufficient. *It is the inadequacy — not the mere absence — of all other legal remedies and the danger of failure of justice without the writ, that must usually determine the propriety of certiorari.*[91] (Citation omitted, emphasis supplied)

In the present case, petitioners' allegation that the Office of the President, through then Executive Secretary Ermita, gravely abused its discretion in failing to appreciate the merits of the February 18, 1948 Decision of the Court of First Instance[92] involves an error of judgment, not of jurisdiction. Assuming that the issue raised by petitioners pertains to an

---

86 *Bimeda v. Perez*, 93 Phil. 636, 639 (1953) [Per J. Bautista Angelo, En Banc].

87 *Hualam Construction and Development Corporation v. Court of Appeals*, 289 Phil. 222 (1992) [Per J. Davide, Jr., Second Division] citing *St. Peter Memorial Park v. Campos*, 159 Phil. 781 (1975) [Per J. Fernandez, First Division].

88 57 Phil. 885 (1933) [Per J. Villa-Real, Second Division].

89 Id. at 893.

90 198 Phil. 493 (1982) [Per J. Fernandez, First Division].

91 Id. at 517.

92 *Rollo*, pp. 191-A–204, Verified Petition for Certiorari and Prohibition dated July 4, 2009.

error of jurisdiction, there is no showing that the Office of the President exercised its power in an "arbitrary or despotic manner by reason of passion, prejudice, or personal hostility."[93]

Petitioners could have taken an appeal from the October 20, 2008 Decision and March 26, 2009 Resolution of the Office of the President by filing a petition for review under Rule 43 of the Rules of Court, which governs appeals from judgments rendered by quasi-judicial agencies in the exercise of quasi-judicial powers.[94]

While it is true that courts may take cognizance of a petition for certiorari despite the availability of appeal,[95] petitioners failed to allege and prove that appeal would be inadequate to promptly relieve them of the effects of the assailed Decision and Resolution of the Office of the President. Well-settled is the rule that a petition for certiorari cannot be used as a substitute for a lost appeal "especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse."[96]

In this regard, the Court of Appeals did not err in dismissing the petition for certiorari outright.

II

The core of the controversy lies in whether or not private respondents are barred by the principle of *res judicata* from instituting free patent applications over the Property claimed by petitioners.

The rule on *res judicata* states that a "final judgment or decree rendered on the merits . . . by a court of competent jurisdiction . . . is conclusive of the rights of the parties or their privies, in all other

---

93 *Milwaukee Industries Corporation v. Court of Tax Appeals*, 650 Phil. 429, 435 (2010) [Per J. Mendoza, Second Division].

94 RULES OF COURT, Rule 43, sec. 1 provides:
Section 1. Scope. — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

95 *See Jaca v. Davao Lumber Company*, 198 Phil. 493 (1982) [Per J. Fernandez, First Division].

96 *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, 479 Phil. 768, 782–783 (2004) [Per J. Panganiban, Third Division].

[subsequent] actions or suits" and on all points and matters determined in the first suit.[97]

Res judicata has two (2) aspects. The first aspect refers to bar by prior judgment while the second refers to conclusiveness of judgment.[98]

In bar by prior judgment, the first judgment "precludes the prosecution of a second action upon the same claim, demand or cause of action."[99] On the other hand, conclusiveness of judgment states that "issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action."[100] Thus, the concept of conclusiveness of judgment is also known as preclusion of issues.[101] All that is required is identity of issues.[102]

Parties invoking the application of *res judicata* must establish the following elements:

(1) the judgment sought to bar the new action must be final;

(2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties;

(3) the disposition of the case must be a judgment on the merits; and

(4) there must be as between the first and second action identity of parties, subject matter, and causes of action.[103]

In this case, only the first three (3) elements of *res judicata* are present.

The February 18, 1948 Decision of the Court of First Instance is a final judgment on the merits rendered by a court of competent jurisdiction. However, it does not bar private respondents from instituting their free patent applications over the Property. There is no identity or substantial identity of parties and identity of subject matter between the February 18, 1948 Decision of the Court of First Instance and private respondents' free patent applications.

---

97 *Oropeza Marketing Corporation v. Allied Banking Corporation*, 441 Phil. 551, 563 (2002) [Per J. Quisumbing, Second Division].

98 *Club Filipino, Inc. v. Bautista*, 750 Phil. 599, 618 (2015) [Per J. Leonen, Second Division] *citing Orendain v. BF Homes, Inc.*, 536 Phil. 1059 (2006) [Per J. Velasco, Jr., Third Division].

99 Id.

100 Id.

101 *Tan v. Court of Appeals*, 415 Phil. 675, 681–682 (2001) [Per J. Panganiban, Third Division].

102 Id.

103 *Club Filipino, Inc. v. Bautista*, 750 Phil. 599, 618 (2015) [Per J. Leonen, Second Division].

The principle of *res judicata* does not require absolute identity of parties. It requires, at the very least, substantial identity of parties. There is substantial identity of parties when there exists a "community of interest between a party in the first case and a party in the second case even if the latter was not impleaded in the first case."[104] For instance, there is substantial identity of parties when one intervenes as a party-defendant and creates a common cause with the original defendant.[105]

The February 18, 1948 Decision of the Court of First Instance involved an agreement between petitioners' predecessors-in-interest, namely: Alipio Duenas, Fortunata Duenas, Spouses Primitivo T. Adaoag and Pilar Tandoc, Spouses Ignacio Gragasin and Genoveva Adaoag, Pantaleon Taar, Lucia Taar, Joaquina Taar, Feliciano Taar, Paulino Taar, and Oscar Galo.[106] Clearly, private respondents were not parties to the agreement. Moreover, there is no clear showing that private respondents or their predecessors-in-interest shared a common interest with any of the parties to the agreement.

However, assuming that there is identity or substantial identity of parties, there is no identity of subject matter between the February 18, 1948 Decision of the Court of First Instance and private respondents' free patent applications. Although both relate to the same Property, the February 18, 1948 Decision of the Court of First Instance was simply an agreement partitioning the bigger parcel of land, which embraced the smaller portion claimed by petitioners and private respondents. On the other hand, private respondents' free patent applications involved the establishment of their rights as the purported occupants and cultivators of the Property. Evidently, there is no identity of subject matter. The principle of *res judicata* does not apply.

In addition, the Court of First Instance did not recognize, expressly or impliedly, that private petitioners' predecessors-in-interest occupied and cultivated the Property for more than 30 years since 1915. It also did not declare petitioners' predecessors-in-interest as the *ipso jure* owners of the same.

Therefore, the February 18, 1948 Decision of the Court of First Instance cannot bar the filing of a subsequent free patent application over the Property. Likewise, petitioners cannot rely solely on this Decision to obtain free patents. Entitlement to agricultural lands of the public domain requires compliance with the provisions of Commonwealth Act No. 141, otherwise known as the Public Land Act.

---

104 *Sendon v. Ruiz*, 415 Phil. 376, 385 (2001) [Per J. Quisumbing, Second Division].

105 *University of the Philippines v. Court of Appeals*, 291-A Phil. 770, 780–781 (1993) [Per J. Romero, Third Division].

106 *Rollo*, p. 37.

There are four (4) modes of disposition of agricultural lands under Section 11 of the Public Land Act, namely: "(1) for homestead settlement; (2) by sale; (3) by lease; or (4) by confirmation of imperfect or incomplete titles[.]"[107]

The applicant of a homestead must be a "citizen of the Philippines over the age of eighteen years, or the head of a family[.]"[108] The applicant must prove compliance with the residency and cultivation requirements under Chapter IV of Public Land Act. Under the Constitution, only 12 hectares of agricultural land of the public domain may be acquired through homestead.[109]

Sales patents are governed by Chapter V of the Public Land Act. The applicant must be a citizen of the Philippines who is of legal age or a head of the family.[110] The land must first be appraised before it can be sold through public bidding.[111] As an additional requirement, the purchaser must "have not less than one-fifth of the land broken and cultivated within five years after the date of the award."[112] The purchaser must also show "actual occupancy, cultivation, and improvement of at least one-fifth of the land applied for until the date on which final payment is made" before the issuance of a sales patent.[113] Only 12 hectares of agricultural land of the public domain may be acquired through a sales patent.[114] The Public Land Act authorized domestic corporations to apply for sales patents over agricultural lands. However, under the present Constitution, private corporations and associations can only lease agricultural lands.[115]

The third mode of disposition of agricultural lands of the public domain is through a lease. The government can only award the right to lease through an auction, the procedure of which shall be the same as that prescribed for sales patents.[116] An inherent condition of the lease is that the lessee should have cultivated 1/3 of the land "within five years after the date

---

107 Com. Act No. 141, sec. 11.
108 Com. Act No. 141, sec. 12.
109 CONST., art. XII, sec. 3, par. 1 provides:
Section 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof by purchase, homestead, or grant.
110 Com. Act No. 141, sec. 22.
111 Com. Act No. 141, secs. 22–27.
112 Com. Act No. 141, secs. 28.
113 Com. Act No. 141, sec. 28.
114 CONST., art. XII, sec. 3, par. 1.
115 CONST., art. XII, sec. 3, par. 1.
116 Com. Act No. 141, sec. 36.

of the approval of the lease."[117] Under the Constitution, citizens may lease not more than 500 hectares of agricultural lands of the public domain. For private corporations and associations, they may lease a maximum of 1,000 hectares of agricultural lands for a period of 25 years, renewable for another 25 years.[118]

The last mode of disposition is by confirmation of imperfect or incomplete titles either through judicial legalization or through administrative legalization. The second sub-category refers to the grant of free patents.[119]

Judicial legalization or judicial confirmation of imperfect or incomplete titles is governed by Section 48 of the Public Land Act, as amended by Republic Act No. 3872 and Presidential Decree No. 1073, which states:

> Section 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 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, to wit:
>
> . . . .
>
> (b) Those who by themselves or through their predecessors in interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, except as against the government, since [June 12, 1945], immediately preceding the filing of the applications for confirmation of title, except when prevented by war 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.

In *Heirs of Malabanan v. Republic of the Philippines*,[120] this Court made an important qualification regarding the registration of lands through judicial confirmation of imperfect title, thus:

> If the mode is judicial confirmation of imperfect title under Section 48 (b) of the Public Land Act, the agricultural land subject of the application needs only to be classified as alienable and disposable as of the time of the application, provided the applicant's possession and occupation of the land

---

[117] Com. Act No. 141, sec. 39.
[118] CONST., art. XII, sec. 3, par. 1.
[119] Com. Act No. 141, sec. 11.
[120] 717 Phil. 141 (2013) [Per J. Bersamin, En Banc].

> dated back to June 12, 1945, or earlier. Thereby, a conclusive presumption that the applicant has performed all the conditions essential to a government grant arises, and the applicant becomes the owner of the land by virtue of an imperfect or incomplete title. By legal fiction, the land has already ceased to be part of the public domain and has become private property.[121] (Citations omitted)

On the other hand, the grant of free patents is governed by Section 44, paragraph 1 of the Public Land Act, as amended by Republic Act No. 6940, which states:

> Section 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the effectivity of this amendatory Act, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares.

The applicant for a free patent should comply with the following requisites: (1) the applicant must be a natural-born citizen of the Philippines; (2) the applicant must not own more than 12 hectares of land; (3) the applicant or his or her predecessors-in-interest must have continuously occupied *and* cultivated the land; (4) the continuous occupation and cultivation must be for a period of at least 30 years before April 15, 1990, which is the date of effectivity of Republic Act No. 6940;[122] and (5) payment of real estate taxes on the land while it has not been occupied by other persons.

Applicants are free to avail any of the two (2) modes. Both judicial legalization and administrative legalization involve agricultural lands of the public domain and require "continuous occupation and cultivation either by the applicant himself or through his predecessors-in-interest for a certain length of time."[123]

In judicial legalization or judicial confirmation, the applicant "already holds an imperfect title to an agricultural land of the public domain after having occupied it from June 12, 1945 or earlier."[124] On the other hand, the

---

[121] Id. at 168–169.

[122] Rep. Act No. 6940, sec. 6 provides:
Section 6. This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.
Republic Act No. 6940 was published on March 31, 1990.

[123] *Kayaban v. Republic*, 152 Phil. 323, 328 (1973) [Per J. Makalintal, C.J., En Banc].

[124] *Republic v. Spouses Go*, G.R. No. 197297, August 2, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/august2017/197297.pdf> 7 [Per J. Leonen, Second Division] citing *Heirs of Malabanan v. Republic*, 717 Phil. 141 (2013) [Per J.

applicant of a free patent does not claim that the land is his or her private property but acknowledges that the land is still part of the public domain.[125] This distinction was reiterated in *De Leon v. De Leon-Reyes*,[126] thus:

> Under Section 11 of the Public Land Act (PLA), there are two modes of disposing public lands through confirmation of imperfect or incomplete titles: (1) by judicial confirmation; and (2) by administrative legalization, otherwise known as the grant of free patents.
> . . . .
>
> Section 48 of the PLA particularly specifies who are entitled to judicial confirmation or completion of imperfect titles:
>
> > (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, immediately preceding the filing of the application for confirmation of title, except when prevented by war 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.
>
> *Upon compliance with the conditions of Sec. 48 (b) of the PLA, the possessor is deemed to have acquired, by operation of law, right to a grant over the land. For all legal intents and purposes, the land is segregated from the public domain, because the beneficiary is conclusively presumed to have performed all the conditions essential to a Government grant. The land becomes private in character and is now beyond the authority of the director of lands to dispose of.*
>
> *At that point, original registration of the title, via judicial proceedings, takes place as a matter of course; the registration court does not grant the applicant title over the property but merely recognizes the applicant's existing title which had already vested upon the applicant's compliance with the requirement of open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945.*
>
> On the other hand, Chapter VII (Sections 44-46) of the PLA substantively governs administrative legalization through the grant of free patents. Section 44 particularly identifies who are entitled to a grant of a free patent[.]
>
> > Sec. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the effectivity of this amendatory Act, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon

---

Bersamin, En Banc].

125 *Sumail v. Court of First Instance of Cotabato*, 96 Phil. 946 (1955) [Per J. Montemayor, En Banc].

126 G.R. No. 205711, May 30, 2016, 791 SCRA 407 [Per J. Brion, Second Division].

> while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares . . .
>
> *Unlike an applicant in judicial confirmation of title who claims ownership over the land, the applicant for a free patent recognizes that the land applied for belongs to the government. A patent, by its very definition, is a governmental grant of a right, a privilege, or authority.* A free patent [...] is an instrument by which the government conveys a grant of public land to a private person.
>
> Pursuant to the Administrative Code and the PLA, the DENR has exclusive jurisdiction over the management and disposition of public lands. In the exercise of this jurisdiction, the DENR has the power to resolve conflicting claims over public lands and determine an applicant's entitlement to the grant of a free patent.[127] (Emphasis supplied, citations omitted)

Petitioners, in choosing to apply for free patents, acknowledged that the land covered by their application still belongs to the government and is still part of the public domain.[128] Under Section 44 of the Public Land Act as amended by Republic Act No. 6940, they are required to prove continuous occupation *and* cultivation for 30 years prior to April 15, 1990 and payment of real estate taxes while the land has not been occupied by other persons. Petitioners insist that the February 18, 1948 Decision of the Court of First Instance automatically vests them with ownership over the property. This Decision cannot be used as proof of compliance with the requirements of the Public Land Act. Again, the Court of First Instance simply approved an agreement of partition. If at all, the February 18, 1948 Decision could only be used as the basis of a subdivision plan.

III

Section 91 of the Public Land Act provides the automatic cancellation of the applications filed on the ground of fraud and misrepresentation, thus:

> 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 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

---

[127] Id. at 421–424.

[128] *See Republic v. Spouses Go*, G.R. No. 197297, August 2, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/august2017/197297.pdf> 6 [Per J. Leonen, Second Division] where this Court stated that "[a]ny application for confirmation of title under Commonwealth Act No. 141 already concedes that the land is previously public."

> 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.

Only extrinsic fraud may be raised as a ground to "review or reopen a decree of registration."[129] Extrinsic fraud has a specific meaning under the law. It refers to that type of fraud that "is employed to deprive parties of their day in court and thus prevent them from asserting their right to the property registered in the name of the applicant."[130]

Petitioners invoke Section 91 of the Public Land Act impliedly by insisting that private respondents procured their free patents and certificates of title through extrinsic fraud and misrepresentation. However, petitioners failed to substantiate their claims. Petitioners allege that private respondents committed extrinsic fraud and misrepresentation but failed to establish the circumstances constituting them. They could have pointed to irregularities[131] during the proceedings to prove that the issuance of the free patents was not made in accordance with the Public Land Act.[132]

The determination on the existence or nonexistence of fraud is a factual matter that is beyond the scope of a petition for review on certiorari.[133] Although there are exceptions to this rule,[134] petitioners failed to allege and prove that this case falls under the exceptions. Assuming that private respondents procured their free patents and certificates of title through extrinsic fraud and misrepresentation, the petition must still be denied.

While it is true that "a title emanating from a free patent which was secured through fraud does not become indefeasible . . . because the patent

---

129 *Encinares v. Achero*, 613 Phil. 391, 404 (2009) [Per J. Nachura, Third Division] *citing Republic v. Guerrero*, 520 Phil. 296 (2006) [Per J. Garcia, Second Division].

130 *Mendoza v. Valte*, 768 Phil. 539, 564 (2015) [Per J. Leonen, Second Division] citing *Republic of the Philippines v. Guerrero*, 520 Phil. 296 (2006) [Per J. Garcia, Second Division].

131 Id. at 403–406.

132 *Republic v. Alejaga, Sr.*, 441 Phil. 656, 668–673 (2002) [Per J. Puno, Third Division].

133 *Mendoza v. Valte*, 768 Phil. 539, 542 (2015) [Per J. Leonen, Second Division].

134 *See Pascual v. Burgos*, G.R. No. 171722, January 11, 2016 [Per J. Leonen, Second Division] citing *Medina v. Mayor Asistio, Jr.* 269 Phil. 225 (1990) [Per J. Bidin, Third Division].

from whence the title sprung is itself void[,]"[135] petitioners are not the proper parties to bring an action for the cancellation of free patents and certificates of title. The validity or invalidity of free patents granted by the government and the corresponding certificates of title is a matter between the grantee and the government. In explaining this rule, this Court in *Sumail v. Court of First Instance of Cotabato*[136] underscored the nature of a free patent application, thus:

> Consequently, Sumail may not bring such action or any action which would have the effect of cancelling a free patent and the corresponding certificate of title issued on the basis thereof, with the result that the land covered thereby will again form part of the public domain. *Furthermore, there is another reason for withholding legal personality from Sumail. He does not claim the land to be his private property. In fact, by his application for a free patent, he had formally acknowledged and recognized the land to be a part of the public domain; this, aside from the declaration made by the cadastral court that lot 3633 was public land. Consequently, even if the parcel were declared reverted to the public domain, Sumail does not automatically become owner thereof. He is a mere public land applicant like others who might apply for the same.*[137] (Emphasis supplied)

This principle was reiterated later in *Cawis v. Cerilles*,[138] a case involving the validity of a sales patent. Thus:

> [W]e must point out that petitioners' complaint questioning the validity of the sales patent and the original certificate of title over Lot No. 47 is, in reality, a reversion suit. The objective of an action for reversion of public land is the cancellation of the certificate of title and the resulting reversion of the land covered by the title to the State. This is why an action for reversion is oftentimes designated as an annulment suit or a cancellation suit.
>
> Coming now to the first issue, Section 101 of the Public Land Act clearly states:
>
> > SEC. 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.
>
> Even assuming that private respondent indeed acquired title to Lot No. 47 in bad faith, only the State can institute reversion proceedings, pursuant to Section 101 of the Public Land Act and our ruling in Alvarico v. Sola. *Private persons may not bring an action for reversion or any action which would have the effect of canceling a land patent and the corresponding certificate of title issued on the basis of the patent, such*

---

[135] *Lorzano v. Tabayag*, 681 Phil. 39, 53 (2012) [Per J. Reyes, Second Division].
[136] 96 Phil. 946 (1955) [Per J. Montemayor, En Banc].
[137] Id. at 953.
[138] 632 Phil. 367 (2010) [Per J. Carpio, Second Division].

> *that the land covered thereby will again form part of the public domain. Only the O[ffice] [of the] S[olicitor] G[eneral] or the officer acting in his stead may do so. Since the title originated from a grant by the government, its cancellation is a matter between the grantor and the grantee.*
>
> Similarly, in *Urquiaga v. CA,* this Court held that there is no need to pass upon any allegation of actual fraud in the acquisition of a title based on a sales patent. Private persons have no right or interest over land considered public at the time the sales application was filed. They have no personality to question the validity of the title. *We further stated that granting, for the sake of argument, that fraud was committed in obtaining the title, it is the State, in a reversion case, which is the proper party to file the necessary action.*[139] (Emphasis supplied, citations omitted)

Lorzano v. Tabayag,[140] citing *Kayaban v. Republic,*[141] explained the purpose of the rule:

> In *Kayaban, et al. v. Republic, et al.*, this Court explained the reason for the rule that only the government, through the OSG, upon the recommendation of the Director of Lands, may bring an action assailing a certificate of title issued pursuant to a fraudulently acquired free patent:
>
> > Since it was the Director of Lands who processed and approved the applications of the appellants and who ordered the issuance of the corresponding free patents in their favor in his capacity as administrator of the disposable lands of the public domain, the action for annulment should have been initiated by him, or at least with his prior authority and consent.[142]

WHEREFORE, the Petition for Review on Certiorari is **DENIED**. The Resolutions dated July 20, 2009 and January 15, 2010 of the Court of Appeals in CA-G.R. SP No. 109390 are **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

---

139 Id. at 375–376.
140 681 Phil. 39 (2012) [Per J. Reyes, Second Division].
141 152 Phil. 323 (1973) [Per C.J. Makalintal, En Banc].
142 681 Phil. 39, 53–54 (2012) [Per J. Reyes, Second Division].

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

On official leave
SAMUEL R. MARTIRES
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPUTAN
Division Clerk of Court
Third Division

JAN 05 2018