



*al.*," for recovery of possession and ownership and/or declaration of nullity of acquisition of property:

- 1) Decision<sup>1</sup> dated December 30, 2010, disposing, thus:

All told, appellee's evidence does not amount to the clear and convincing evidence that is required to overturn the presumptions arrayed against him.

The Court finds that the lower court erred in giving particular weight to appellants' failure to produce in court Exhibits "2", "3", "4", "5", "8", "10", "11", "12" AND "21." These documents were declared inadmissible for being mere copies. Appellants argue the originals were in the custody of the DENR office in Tacurong, Sultan Kudarat, and that it should have sufficed that Alicia Flores, the custodian of the records, had identified the copies. The Court is not entirely convinced of appellants' contention. But the fact remains that appellants have been able to present OCT (P-45002) Pls-9154, in the name of Lucia Heretape; OCT (P-45003) P-9155, in the name of Nestor Heretape; and OCT (P-42941) P-349 in the name of Roberto Landero. This is enough. In view of appellee's failure to overcome the presumptions in favor of these certificates of title, their validity will be sustained.

WHEREFORE, the appeal is GRANTED. The October 3, 2003 Judgment of the Regional Trial Court (RTC), 12<sup>th</sup> Judicial Region, Branch 19, Isulan, Sultan Kudarat is REVERSED and case is dismissed for failure to establish cause of action.

SO ORDERED.<sup>2</sup>

- 2) Resolution<sup>3</sup> dated October 6, 2011, denying petitioners' motion for reconsideration.

### **Proceedings Before the Trial Court**

Petitioners Spouses Kawasa Magalang and Mona Wahab filed the complaint below against respondents Spouses Lucibar Heretape and Rosalina Funa, Roberto Landero, Spouses Nestor Heretape and Rosa Rogador, and Engr. Eusebio Fortinez. The case was raffled to the Regional Trial Court (RTC), Branch 19, Isulan, Sultan Kudarat.

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<sup>1</sup> Penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Edgardo T. Lloren and Ramon Paul L. Hernando (now a member of this Court), all members of the Twenty-First Division, *rollo*, pp. 25-41.

<sup>2</sup> *Id.* at 39-40.

<sup>3</sup> Penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Edgardo T. Lloren and Carmelita Salandanan Manahan, all members of the Special Former Twenty-First Division, *rollo*, pp. 42-45.

*nb*

***Petitioner's Complaint<sup>4</sup>***  
***dated May 7, 1999***

They were the owners of Lot 1064, Pls-397-D, a 10-hectare property located at Salabaca, Ampatuan, Cotabato\*. On February 4, 1969, Kawasa Magalang and Lucibar Heretape executed a memorandum of agreement authorizing the latter "*to occupy, cultivate and produce in a certain portion of TWO AND A HALF (2 ½) hectares*" of the lot for a period of one year and four months, for a consideration of ₱1,310.00.<sup>5</sup>

In the early 1970s, Kawasa Magalang and his family were forced to evacuate the lot because of the Ilaga-Blackshirt conflict. Spouses Lucibar Heretape and Rosalina Funa, Spouses Nestor Heretape and Rosa Rogador, and Roberto Landero took advantage of the situation and usurped the whole 10-hectare lot. In connivance with these persons, Geodetic Engineer Eusebio Fortinez caused the subdivision of the lot into three parts: Lot 1064-A, Lot 2238-A, and Lot 2238-B. Then, using falsified free patent applications and fraudulent Bureau of Lands documents and deeds of transfer of rights, Spouses Lucibar Heretape and Rosalina Funa, et. al. succeeded in obtaining free patent titles to portions of the lot.<sup>6</sup>

***Respondent's Answer<sup>7</sup>***  
***dated May 26, 1999***

At the time Lucibar Heretape executed subject memorandum of agreement, Kawasa Magalang misrepresented himself as the lot owner. When Kawasa Magalang later abandoned the lot, a certain Pedro Deansin\*\* claiming to be the real owner, showed up and demanded that they (respondents) vacate the lot. As proofs of his ownership, Pedro Deansin showed them a Deed of Transfer of Rights executed by a certain Gomongon Batolawan, Resolution dated February 11, 1959 from the Bureau of Lands, and Order dated March 17, 1960 issued by the Secretary of Agriculture and Natural Resources.<sup>8</sup>

Since Kawasa Magalang could no longer be located, Nestor Heretape, Lucibar Heretape's son, opted to buy 5 hectares from Pedro Deansin, corresponding to one-half of the lot. After the purchase, Nestor Heretape gave 2.5 hectares to his father Lucibar Heretape. In 1974, Pedro Deansin sold the remaining 5 hectares to Roberto Landero. Subsequently, they applied for and were awarded certificates of title to their respective lots.<sup>9</sup>

Trial ensued.

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<sup>4</sup> RTC Record, pp. 2-9.

\* now Daladap, Esperanza, Sultan Kudarat.

<sup>5</sup> RTC Record, p. 3.

<sup>6</sup> *Id.* at 3-4.

<sup>7</sup> *Id.* at 30-36.

\*\* or Jansen.

<sup>8</sup> RTC Record, pp. 30-31.

<sup>9</sup> *Id.* at 32-33.

### *Petitioner's Evidence*

Petitioner Kawasa Magalang essentially testified that he inherited the 10-hectare lot from his grandparents and forefathers.<sup>10</sup> He had planted coconut, banana, bamboo trees and palay thereon.<sup>11</sup> He mortgaged to Lucibar Heretape, for ₱1,310.00, 2.5 hectares of the lot. The mortgage was for a period of more than one year. For this purpose, he and Lucibar Heretape executed a memorandum of agreement. He subsequently offered to pay back the loan but Lucibar Heretape repeatedly refused it.<sup>12</sup> Roberto Landero, Nestor Heretape, and Rosa Rogador usurped the remaining 2.5 hectares.<sup>13</sup> He did not know Pedro Deansin nor was he aware of any case involving this person with the Bureau of Lands.<sup>14</sup>

Kawasa Magalang's daughter Sabpia Magalang Wahalon testified that she and her five siblings had previously lived on their father's 10-hectare lot. Her father paid taxes on the property as shown by a tax declaration and tax receipts.<sup>15</sup>

They submitted the following documentary evidence: a) official receipts for real property tax payments;<sup>16</sup> b) Memorandum of Agreement<sup>17</sup> dated February 4, 1969; c) Tax Declaration No. 6085<sup>18</sup> dated September 16, 1963; and d) Certificate to File Action,<sup>19</sup> issued by the Barangay Captain of Daladap, Esperanza, Sultan Kudarat. in Barangay Case No. 5, Series of 1986 entitled "*Lucibar Heretape v. Kawasa Magalang.*"

### *Respondents' Evidence*

Nestor Heretape testified that he and his father Lucibar Heretape each owned a 2.5 hectare lot. In 1969, his father worked on a 2.5-hectare lot, which Kawasa Magalang mortgaged to him. In 1970, Pedro Deansin showed up, claiming to be the owner of the lot measuring 10 hectares. He opted to buy 2.5 hectares of the lot, including the 2.5 hectares which Kawasa Magalang mortgage to his father. In the end, he bought 5 hectares of the entire lot. He later sold 2.5 hectares to his father. They were told that since Kawasa Magalang lost the case before the Bureau of Lands, Kawasa Magalang voluntarily demolished his house and left the place.<sup>20</sup>

Roberto Landero testified that he bought 5 hectares of the lot from Pedro Deansin through a corresponding deed of sale. Thereafter, he caused

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<sup>10</sup> TSN, July 31, 2000, p. 12.

<sup>11</sup> *Id.* at 5-6.

<sup>12</sup> *Id.* at 6-10.

<sup>13</sup> *Id.* at 9.

<sup>14</sup> *Id.* at 11-12.

<sup>15</sup> TSN, August 7, 2000, pp. 7-9.

<sup>16</sup> RTC Record, pp. 94-97.

<sup>17</sup> *Id.* at 98.

<sup>18</sup> *Id.* at 99.

<sup>19</sup> *Id.* at 100.

<sup>20</sup> TSN, October 25, 2000, pp. 3-10.

the land to be titled. He was never disturbed in his possession of the land. He only came to know of Kawasa Magalang when the instant case was filed against him.<sup>21</sup>

Alicia Flores, Record Officer of CENRO - Tacurong, Sultan Kudarat, testified that she was the custodian of respondents' records or *carpeta* pertaining to Lot 1064. She was also the custodian of the *carpeta* involving the protest of *Kawasa Magalang against Pedro Diansen* involving Lot 1064. She identified photocopies of the following documents in her custody, viz: a) Deed of Transfer of Rights between Gomongon Batolawan and Pedro Deansin; b) Decision dated May 28, 1958 of Acting Regional Director Primitivo Papa's, granting Pedro Deansin's application for free patent on the whole of Lot No. 1064; c) Order dated February 11, 1959 of Director Zoilo Castrillo, denying Kawasa Magalang's second motion for reconsideration; d) Order dated March 17, 1960 of Acting Secretary Jose Trinidad, Department of Agriculture and Natural Resources, denying petitioner Kawasa Magalang's appeal; e) Deed of Sale executed by Pedro Deansin and Roberto Landero; f) Deed of Sale executed by Pedro Deansin and Nestor Heretape; g) Deed of Sale executed by Nestor Heretape and Lucibar Heretape; h) Minutes of Investigation of the case involving Kawasa Magalang and Pedro Deansin; and i) Order issued by Bureau of Lands District Land Officer Cipriano Catudan in December 1976 recognizing Pedro Deansin's transfer of his rights to respondent Nestor Heretape on March 7, 1973. She only had in her custody photocopies of these documents.<sup>22</sup>

Respondents offered the following documentary evidence: 1) Deed of Transfer of Rights<sup>23</sup> dated December 21, 1952 executed by Gomongon Batolawan and Pedro Deansin; 2) Decision<sup>24</sup> dated May 28, 1958 of Acting Regional Director Primitivo Papa; 3) Order<sup>25</sup> dated February 11, 1959 of Director Zoilo Castrillo; 4) Order<sup>26</sup> dated March 17, 1960 of Acting Secretary Jose Trinidad, Department of Agriculture and Natural Resources; 5) OCT (P-45002) P-9154<sup>27</sup> registered in Lucibar Heretape's name; OCT (P-45003) P-9155<sup>28</sup> registered in Nestor Heretape's name; 6) OCT (P-42941) P-3449<sup>29</sup> registered in Roberto Landero's name; 7) Deed of Transfer of Rights<sup>30</sup> dated May 24, 1976 executed by Nestor Heretape in favor of Lucibar Heretape; 8) Deed of Transfer of Rights<sup>31</sup> dated March 7, 1973 executed by Pedro Deansin in favor of Nestor Heretape; 9) Minutes of Investigation<sup>32</sup> prepared by Investigator Lucas de Guzman; 10) Approval of Application and Issuance of

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<sup>21</sup> TSN, February 22, 2001, pp. 3-7.

<sup>22</sup> TSN, March 28, 2001, pp. 3-9.

<sup>23</sup> RTC Record, pp. 195-196.

<sup>24</sup> *Id.* at 197-198.

<sup>25</sup> *Id.* at 199.

<sup>26</sup> *Id.* at 200-201.

<sup>27</sup> *Id.* at 202.

<sup>28</sup> *Id.* at 47-48.

<sup>29</sup> *Id.* at 50-51.

<sup>30</sup> *Id.* at 204.

<sup>31</sup> *Id.* at 208.

<sup>32</sup> *Id.* at 211-220.

Patent<sup>33</sup> issued by Land Officer Cipriano Catudan; 11) Order<sup>34</sup> dated November 24, 1974 of Land Officer Cipriano Catudan, giving due course to Roberto Landero's application for free patent over Lot 10-64-B; 12) Investigation Report<sup>35</sup> on the application for a free patent of Roberto Landero; 13) Deed of Sale<sup>36</sup> dated May 22, 1974 executed by Pedro Deansin in favor of Roberto Landero; 14) Report<sup>37</sup> dated October 22, 1976 of Land Examiner Raul Anildes; 15) Order<sup>38</sup> dated December 15, 1976 of District Land Officer Cipriano Catudan, granting Nestor Heretape's application for free patent; 16) Nestor Heretape's application for free patent;<sup>39</sup> 17) Lucibar Heretape's application for free patent; 18) Order<sup>40</sup> in December 1976 of Land Officer Cipriano Catudan; 19) Tax Declaration No. 23023<sup>41</sup> in Pedro Deansin's name; 20) Pedro Deansin's application for free patent;<sup>42</sup> and 21) Notice of Pedro Deansin's application for free patent.<sup>43</sup>

### ***Petitioners' Rebuttal Evidence***

Abad Ulama, a former resident of Daladap, Esperanza, Sultan Kudarat, testified that he was born in Daladap and resided on Lot 788. He saw Kawasa Magalang planting coconuts, bananas, and palay on the land where his father lived with his family. He did not know Pedro Deansin, Nestor Heretape, and Roberto Landero. Kawasa Magalang had mortgaged the lot to respondent Lucibar Heretape.<sup>44</sup>

Sumagayan Datindeg, the first *Tiniente del Barrio* of Daladap from 1965 to 1970, testified that he knew Kawasa Magalang, a farmer, who planted coconuts, bananas, and bamboo on his own land. At that time, the trees Kawasa Magalang planted had already grown tall. They were five years old. Kawasa Magalang stayed on the land until he evacuated it.<sup>45</sup>

### **The Trial Court's Ruling**

By Judgment<sup>46</sup> dated October 3, 2003, the trial court ruled in petitioners' favor, thus:

WHEREFORE, upon all the foregoing consideration, judgment is hereby rendered:

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<sup>33</sup> *Id.* at 221.

<sup>34</sup> *Id.* at 222.

<sup>35</sup> *Id.* at 223.

<sup>36</sup> *Id.* at 224.

<sup>37</sup> *Id.* at 225.

<sup>38</sup> *Id.* at 226.

<sup>39</sup> *Id.* at 227.

<sup>40</sup> *Id.* at 229.

<sup>41</sup> *Id.* at 231.

<sup>42</sup> *Id.* at 232.

<sup>43</sup> *Id.* at 233.

<sup>44</sup> TSN, January 21, 2002, pp. 1-11.

<sup>45</sup> *Id.* at 24-33.

<sup>46</sup> RTC Record, pp. 312-362.



(a) ordering the defendants, Lucibar Heretape, Nestor Heretape and Roberto Landero, their agents and those who are working and/or acting in their behalves, on any and all subdivided portions of Lot 1064, Pls-397-D, identified as Lot 2238-B, Csd-12-000041; Lot 2238-A, Csd-12-000041; and Lot 1064-A, Csd-11-002316, to vacate immediately said lots and to deliver/surrender the possession thereof to the plaintiffs, and to remove and/or demolish all improvements introduced thereon, at their own expense, without indemnity, for having been introduced on said lots in bad faith, except for defendant Lucibar Heretape whose dispossession shall be subject to the payment to him of the loan of P1,310.00 by plaintiff, Kawasa Magalang;

(b) declaring null and void, sham and fictitious, the Deed of Transfer of Rights, dated December 21, 1952, executed in favor of Pedro Deansin by one Gomogon Batolawan; the Deed of Sale dated May 22, 1974, executed by Pedro Deansin in favor of defendant Roberto Landero; the Deed of Transfer of Rights dated March 7, 1973, executed by Pedro Deansin in favor of defendant Nestor Heretape; and the Deed of Transfer of Rights dated May 24, 1976, executed by defendant Nestor Heretape in favor of the defendant Lucibar Heretape, as well as, declaring null and void Original Certificate of Title No. (P-45002) P-9154 in the name of Lucibar Heretape; Original Certificate of Title No. (P-45003) P-9155, in the name of Nestor Heretape; and Original Certificate of Title No. (P-42941) P-349 in the name of Roberto Landero;

(c) directing the defendant, Lucibar Heretape or his duly authorized representative to surrender the owner's duplicate copy of Original Certificate of Title No. (P-45002) P-9154; the defendant Nestor Heretape, to surrender the owner's duplicate copy of Original Certificate of Title No. (P-45003) P-9155; and the defendant Roberto Landero, to surrender the owner's duplicate copy of Original Certificate of Title No. (P-42941) P-349, to the Register of Deeds of Sultan Kudarat, and to reconvey in favor of the plaintiffs the parcels of land covered under their respective Free Patent Titles, within a period of ten (10) days from the finality of this judgment; and

(d) directing the Register of Deeds of Sultan Kudarat:

1. To cause the cancellation of private defendants' respective certificates of title identified in subparagraph (c) hereof, to be entered and/or annotated in the original copies of their certificates of title should the private defendants fail without valid justification to surrender their certificate of title for reconveyance in favor of the plaintiffs within ten (10) days from the finality of this judgment; and

2. To issue individually the corresponding certificates of title for each lot, covering Lot 2238-B, Csd-12-000041; Lot 2238-A, Csd-12-000041; and Lot 1064-A, Csd-11-002316, in the name of plaintiff, Kawasa Magalang married to Mona Wahab.

For lack of merit, the counterclaim of the defendants should be, as it is hereby, DISMISSED.

SO ORDERED.<sup>47</sup>

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<sup>47</sup> *Id.* at 358-362.

The trial court gave full credence to petitioners' testimonial evidence and declared inadmissible respondents' documentary evidence for being mere photocopies, *viz*: 1) the Deed of Transfer of Rights between Gomongon Batolawan and Pedro Deansin; 2) Decision dated May 28, 1958 of Acting Regional Director Primitivo Papa; 3) Order dated February 11, 1959 Director Zoilo Castrillo; 4) Order dated March 17, 1960 of the Acting Secretary Jose Trinidad, Department of Agriculture and Natural Resources; 5) Deed of Sale executed by Pedro Deansin and Roberto Landero; 6) Deed of Sale executed by Pedro Deansin and Nestor Heretape; 7) Deed of Sale executed by Nestor Heretape and Lucibar Heretape; 8) Minutes of Investigation, prepared by Investigator Lucas de Guzman; and 9) and Order issued in December 1976 by Land Officer Cipriano Catudan.

### **The Proceedings Before the Court of Appeals**

Respondents went to the Court of Appeals on two separate appeals. One was pursued by Spouses Lucibar Heretape and Rosalina Funa and Spouses Nestor Heretape and Rosa Rogador; the other, by Roberto Landero.

The first group faulted the trial court for: a) giving credence to the testimonies of Kawasa Magalang and his daughter Sabpia Magalang Wahalon, both claiming that they acquired the property through prescription; and b) declaring most of their documentary evidence dubious, hence, inadmissible.

On the other hand, Roberto Landero faulted the trial court for: 1) refusing to rule that petitioners had no cause of action against him; 2) not dismissing the complaint on ground of prescription; 3) allowing petitioners to collaterally attack his title; and 4) imposing on him the burden to show that his title was not acquired through fraud.

By its assailed Decision<sup>48</sup> dated December 30, 2010, the Court of Appeals reversed and dismissed the complaint.

It held that in the action for reconveyance below, petitioners bore the burden of proving, by clear and convincing evidence, that respondents fraudulently secured their respective patents and titles to portions of Lot 1064. They, too, bore the burden of proving their claim of ownership. But as it was, petitioners failed to discharge such burden of proof. In fact, they were even incipiently unable to show that at the time they allegedly occupied the land, the same was already declared alienable. Nor did petitioners show that their alleged possession had been open, continuous, exclusive, and notorious since June 12, 1945, or earlier.<sup>49</sup>

Further, there is no showing, as none was shown, that petitioners

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<sup>48</sup> Rollo, pp. 25-45.

<sup>49</sup> *Id.* at 33-36.



acquired the land through acquisitive prescription. There was no express declaration by the State that the property was no longer intended for public service or development.<sup>50</sup> The trial court likewise erred in giving too much emphasis on respondents' failure to produce the original copies of some of the documents they offered in evidence. The fact still remains though that respondents were able to present the original copies of OCT (P-45002) Pls-9154 (Lot 2238-B) in the name of Lucibar Heretape, OCT (P-45003) P-9155 (Lot 2238-A) in the name of Nestor Heretape, and OCT (P-42941) P-349 (Lot 1064-A) in Roberto Landero's name. These indefeasible titles prove respondents truly owned the lots and are therefore, entitled to their possession.<sup>51</sup>

Petitioners moved for reconsideration which the Court of Appeals denied through its assailed Resolution dated October 6, 2011.

### **The Present Petition**

Petitioners now invoke the Court's discretionary appellate jurisdiction to review and reverse the Decision dated December 30, 2010 and Resolution dated October 6, 2011 of the Court of Appeals.

Petitioners reiterate that by acquisitive prescription, they became the owners of the whole Lot 1064, now subdivided into Lot 2238-B, in the name of Lucibar Heretape, Lot 2238-A in the name of Nestor Heretape, and Lot 1064-A in the name of Roberto Landera. They assert that respondents were able to acquire titles over portions of Lot 1064 either through fraud (by using falsified free patent applications), and fraudulent Bureau of Lands documents and deeds of transfer of rights.<sup>52</sup>

In response, Lucibar Heretape (substituted by his successors-in-interest John Heretape and Rosalina Funa) counters that he lawfully acquired title to Lot 2238-B.<sup>53</sup>

Respondent Roberto Landero riposted that his title to Lot 1064-A is supported by documents which are over 30 years old, hence, there is no need to prove their authenticity.<sup>54</sup>

### **Issue**

Are petitioners entitled to reconveyance of the entire Lot 1064 or the three subdivided lots 2238-B, Lot 2238-A, and Lot 1064-A?

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<sup>50</sup> *Id.* at 38-39.

<sup>51</sup> *Id.* at 39-40.

<sup>52</sup> *Id.* at 4-23.

<sup>53</sup> *Id.* at 48-54.

<sup>54</sup> *Id.* at 57-59.

## Ruling

We deny the petition.

The Rules of Court requires that only questions of law should be raised in petitions filed under Rule 45.<sup>55</sup> This court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are final, binding, or conclusive on the parties and upon this court<sup>56</sup> when supported by substantial evidence.<sup>57</sup> Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to this court.<sup>58</sup> An exception would be when the findings of the Court of Appeals are contrary to those of the trial court,<sup>59</sup> as in this case. Verily, the Court will have to make its own factual determination for the purpose of resolving the present case.

An action for reconveyance is based on Article 1456 of the New Civil Code of the Philippines, viz:

Article 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

Article 1456 of the Civil Code provides that a person acquiring property through fraud becomes by operation of law, a trustee of an implied trust for the benefit of the real owner of the property. If fraud was indeed committed, it gives a complainant the right to seek reconveyance of the property from the registered owner or subsequent buyers.<sup>60</sup>

A complaint for reconveyance is an action which admits the registration of title of another party but claims that such registration was erroneous or wrongful.<sup>61</sup> It seeks the transfer of the title to the rightful and legal owner, or to the party who has a superior right over it, without prejudice to innocent purchasers in good faith.<sup>62</sup> It seeks the transfer of a title issued in a valid proceeding. The relief prayed for may be granted on the basis of intrinsic fraud-fraud committed on the true owner instead of fraud committed on the procedure amounting to lack of jurisdiction.<sup>63</sup>

The party seeking to recover the property must prove, by clear and convincing evidence, that he or she is entitled to the property, and that the adverse party has committed fraud in obtaining his or her title.<sup>64</sup> As to what is

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<sup>55</sup> Rules of Court, Rule 45, Sec. 1.

<sup>56</sup> *Commissioner of Internal Revenue v. Embroidery and Garments Industries (Phil), Inc.*, 364 Phil. 541, 546 (1999).

<sup>57</sup> *Siasat v. Court of Appeals*, 425 Phil. 139, 145 (2002).

<sup>58</sup> *Bank of the Philippine Islands v. Leobrera*, 461 Phil. 461, 469.

<sup>59</sup> *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990).

<sup>60</sup> *Alfredo v. Borrás*, 452 Phil. 178, 202-203 (2003).

<sup>61</sup> *Toledo v. Court of Appeals*, 765 Phil. 649, 659 (2015)

<sup>62</sup> *Id.*

<sup>63</sup> *Aboitiz v. Po*, 810 Phil. 123, 137 (2017).

<sup>64</sup> *Id.*

clear and convincing evidence, *Tankeh v. DBP*<sup>65</sup> explains:

Second, the standard of proof required is clear and convincing evidence. This standard of proof is derived from American common law. It is less than proof beyond reasonable doubt (for criminal cases) but greater than preponderance of evidence (for civil cases). The degree of believability is higher than that of an ordinary civil case. Civil cases only require a preponderance of evidence to meet the required burden of proof. x x x The imputation of fraud in a civil case requires the presentation of clear and convincing evidence. Mere allegations will not suffice to sustain the existence of fraud. The burden of evidence rests on the part of the plaintiff or the party alleging fraud. The quantum of evidence is such that fraud must be clearly and convincingly shown.

Surely, bare allegations of fraud are not enough.<sup>66</sup> “*Intentional acts to deceive and deprive another of his right, or in some manner injure him, must be specifically alleged and proved.*” In the absence of such required proof, the complaint for reconveyance will not prosper.<sup>67</sup>

Article 434 of the New Civil Code further provides what complainant must prove in order to recover the property:

Art. 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.

In other words, the person who claims a better right of ownership to the property sought to be recovered must prove two things: first, the identity of the land claimed; and second, his title thereto.<sup>68</sup>

As for the first requisite, there is no doubt that the land sought to be reconveyed is Lot 1064, a 10-hectare property located at Salabaca, Ampatuan, Cotabato, which was later subdivided into Lot 1064-A, Lot 2238-A, and Lot 2238-B. As to the second requisite pertaining to ownership, the parties have conflicting claims.

On one hand, petitioners claim to be the real owners of Lot 1064. They presented in evidence tax receipts for years 1963 to 1967 and Tax Declaration No. 6085 dated 1963. These pieces of evidence, however, cannot prevail, let alone, defeat respondents' respective original certificates of title to the lots in question, *viz*: OCT (P-45002) Pls-9154 (Lot 2238-B) - Lucibar Heretape, OCT (P-45003) P-9155 (Lot 2238-A) - Nestor Heretape, and OCT (P-42941) P-349 (Lot 1064-A) - Roberto Landero.

For the Torrens title is conclusive evidence with respect to the

<sup>65</sup> 720 Phil. 641, 675-675 (2013).

<sup>66</sup> *Id.* at 58.

<sup>67</sup> *Loyola v. Court of Appeals*, 803 Phil. 143, 161 (2017).

<sup>68</sup> *Ibot v. Tayco*, 757 Phil. 441, 450 (2015).

ownership of the land described therein, and other matters which can be litigated and decided in land registration proceedings.<sup>69</sup> As such, the titleholder is entitled to all the attributes of ownership of the property, including possession.<sup>70</sup> Here, OCT (P-45002) Pls-9154, OCT (P-45003) P-9155, and OCT (P-42941) P-3449 are conclusive evidence that Lucibar Heretape, Nestor Heretape, and Roberto Landero, in whose names the lots are registered, are indeed the real owners thereof.

In contrast, petitioners' single tax declarations and old tax receipts dated 1963 – 1967 are not considered evidence of ownership, hence, the same cannot defeat respondents' certificates of title to the lots in question. More so because the certificates of title issued in the names of Lucibar Heretape, Nestor Heretape, and Roberto Landero, came at a much later date than the tax declaration and tax receipts. *Cureg v. IAC*<sup>71</sup> states: “We hold that said tax declaration, being of an earlier date cannot defeat an original certificate of title which is of a later date.”

Petitioners also impute fraud on respondents Lucibar Heretape, Roberto Landero, Nestor Heretape, and Rosa Rogador, who allegedly acquired possession and ownership of the land after petitioner Kawasa Magalang and his family were forced to evacuate the lot back in the 70s and refused to return the lots to petitioner Kawasa Magalang despite demand. In support of their allegation of fraud, petitioners only offered self-serving testimonies without anything more. Surely, self-serving testimonies are not evidence, nay clear and convincing evidence.

Lastly, petitioners assert they had acquired ownership of the lot by reason of prescription. Petitioner Kawasa Magalang testified that he inherited the 10-hectare lot from his grandparents and forefathers, and he had planted coconut, banana, bamboo trees and palay thereon. His daughter Sabpia Magalang Wahalon testified that she and her five siblings had previously lived on their father's 10-hectare lot.

In support of their claim of prescription, petitioners also presented Abad Ulama and Sumagayan Datindeg. Abad Ulama said that he had seen petitioner Kawasa Magalang planting coconuts, bananas, and palay on the land. Kawasa's father had also lived there with his family. Meanwhile, Sumagayan Datindeg also said that petitioner Kawasa Magalang was a farmer, who planted coconuts, bananas, and bamboo on his own land. Some of the trees were already tall and were about five years old when he saw these.

None of these supposed testimonies has established that petitioners indeed acquired ownership of the lot by prescription. The testimonies, if at all, are mere general statements. They do not at all prove that petitioners and their predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation of the subject land for more than thirty

<sup>69</sup> *Sampaco v. Lantud*, 669 Phil. 304, 316 (2011).

<sup>70</sup> *Vda. de Aguilar v. Alfaro*, 637 Phil. 131, 142 (2010).

<sup>71</sup> 258 Phil. 104, 111 (1989).

years. As explained in *Republic v. Alconaba*.<sup>72</sup>

**In any case, respondents' bare assertions of possession and occupation by their predecessors-in-interest since 1940 (as testified to by Carmencita or since 1949 (as testified to by Mauricio and declared in respondents' application for registration) are hardly "the well-nigh incontrovertible" evidence required in cases of this nature. Proof of specific acts of ownership must be presented to substantiate their claim. They cannot just offer general statements which are mere conclusions of law than factual evidence of possession. Even granting that the possession by the respondents' parents commenced in 1940, still they failed to prove that their predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a bona fide claim of acquisition of ownership. (Emphasis supplied)**

So must it be.

All told, the Court of Appeals did not err in dismissing petitioners' complaint for recovery of possession and ownership and/or declaration of nullity of acquisition of property.

**ACCORDINGLY**, the petition is **DENIED**. The assailed Decision dated December 30, 2010 and Resolution dated October 6, 2011 of the Court of Appeals in CA-G.R. CV No. 81939 are **AFFIRMED**.

**SO ORDERED.**

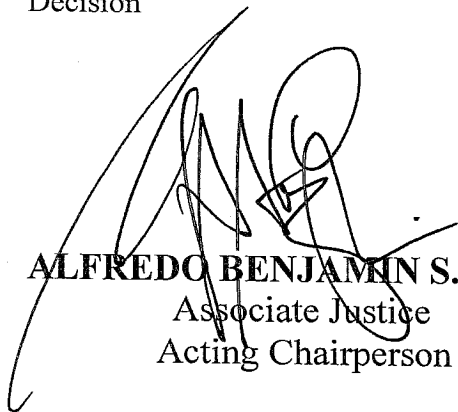
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

**WE CONCUR:**

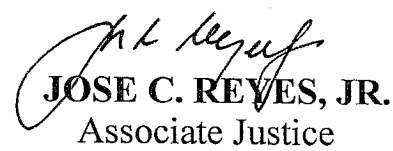
(On official leave)  
**ANTONIO T. CARPIO**  
Senior Associate Justice  
Chairperson

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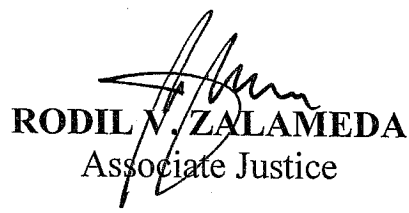
<sup>72</sup> 471 Phil. 607, 620 (2004).



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson



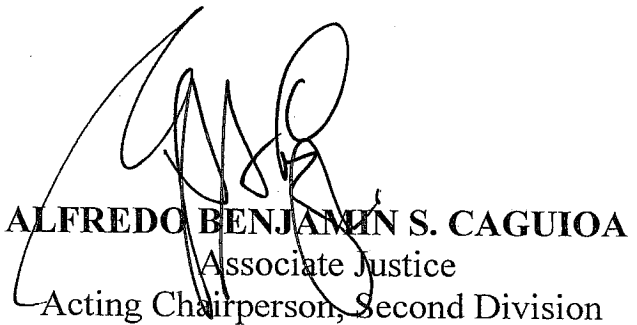
**JOSE C. REYES, JR.**  
Associate Justice



**RODIL N. ZALAMEDA**  
Associate Justice

**ATTESTATION**

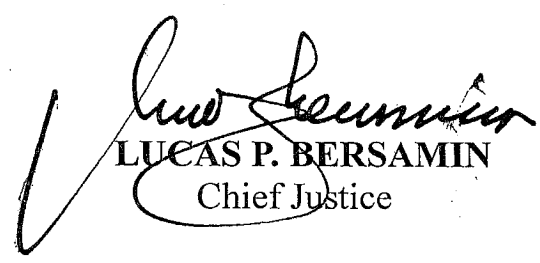
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the above Division Acting 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.



**LUCAS P. BERSAMIN**  
Chief Justice

