Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEDRO MENDOZA [DECEASED], SUBSTITUTED BY HIS HEIRS FEDERICO MENDOZA AND DELFIN MENDOZA, AND JOSE GONZALES,	**G.R. No. 172961**
Petitioners,	Present:
	CARPIO, *J., Chairperson,*
	BRION,
	DEL CASTILLO,
	MENDOZA, and
-versus-	LEONEN, *JJ.*
REYNOSA VALTE,	
Respondent.	**Promulgated:** SEP 07 2015

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DECISION

LEONEN, *J.*:

The existence or non-existence of fraud is a legal conclusion based on a finding that the evidence presented is sufficient to establish facts constituting its elements.[1] Questions of fact are generally not entertained in a petition for review before this court.[2] In any event, petitions for a review or reopening of a decree of registration based on actual fraud must be filed before the proper court within the one-year period provided under the relevant laws.[3] The party alleging fraud must overcome the burden of proving the fraud with clear and convincing evidence.[4] Section 101 of

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1 *Republic of the Philippines v. Guerrero,* 520 Phil. 296, 306 (2006) [Per J .Garcia, Second Division].

2 RULES OF COURT, Rule 45, sec. 1.

3 Pres. Decree No. 1529 (1978), sec. 32.

4 *Republic of the Philippines v. Bellate,* G.R. No. 175685, August 7, 2013, 703 SCRA 210, 222 [Per J. Brion, Second Division], *quoting Libudan v. Gil,* 150-A Phil. 362 (1972) [Per J. Antonio, Second

Commonwealth No. 141 allows actions for the reversion of land fraudulently granted to private individuals filed even after the lapse of the one-year period,[5] but this must be initiated by the state.

This Petition for Review on Certiorari assails the Court of Appeals' December 28, 2005 Decision[6] and prays that the Office of the President Decision be reinstated.[7]

Sometime in 1978,[8] Reynosa Valte (Valte) filed a free patent application[9] dated July 6, 1978 for a 7.2253-hectare parcel of land[10] in San Isidro, Lupao, Nueva Ecija.[11] The application listed Procopio Vallega and Pedro Mendoza (Mendoza) as witnesses who would testify to the truth of the allegations in Valte's application.[12]

The Director of Lands then issued the Notice of Application for Free Patent stating that "[a]ll adverse claims to the tract of land above-described must [be] filed in the Bureau of Lands on or before the 7th day of August 1978. Any claim not so filed will be forever barred."[13]

On September 14, 1978, the Land Investigator certified that the land formed part of the old cadastral lot subdivided in December 1975 and approved as Csd-03-000514-D on March 25, 1976. Thus, Lot 1035-B was equivalent to Lot 2391, Cad. 144 of Lupao, Nueva Ecija.[14] The land was first occupied and cultivated by Francis Maglaya, Nemesio Jacala, and Laureano Pariñas, who sold all their rights to the portions adjudicated to them to Spouses Policarpio Valte and Miguela dela Fuente in May 1941.[15] The spouses immediately took possession. Miguela dela Fuente assumed the responsibilities over the land after her husband died. When she aged, she transferred all her rights to their only daughter, Reynosa Valte, who was

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Division].

5 *Republic v. Heirs of Alejaga, Sr.,* 441 Phil. 656, 663 and 674 (2002) [Per J. Panganiban, Third Division], *citing Republic v. Court of Appeals*, 325 Phil. 636 (1996) [Per J. Mendoza, Second Division].

6 *Rollo,* p. 8, Petition.

7 Id. at 31, Petition: "In view of the foregoing, the Office of the President's decision dated April 26, 2000, is correct. As respondent Reynosa Valte's acts of numerous fraudulent and untruthful narrations or assertion of material facts are indubitably on word, then her OCT No. P-10119, be declared null and void, and the decision of the Office of the President be reinstated.

Other relief and remedy as are just, equitable and lawful are also prayer for."

8 Id. at 58. The free patent application was dated July 6, 1978. The DENR January 20, 1994 Decision states that the free patent application was filed on July 6, 1978 (Id. at 52), while the Petition alleged that the free patent application was filed on December 15, 1978 (Id. at 11).

9 Id., Free Patent Application No. (III-2) 12409 (E-590098).

10 Id. The free patent application states that the parcel of land is "[i]dentical to Lot No. 1035-B, Cad-03-000514-D."

11 Id. at 35, Court of Appeals Decision.

12 Id. at 58.

13 Id. at 126, Notice of Application for Free Patent.

14 Id. at 53, DENR Decision dated January 20, 1994.

15 Id.

found in actual possession of the land.[16] The Land Investigator recommended the grant of Valte's application considering these findings.[17]

On December 28, 1978, the Bureau of Lands approved Valte's application and issued Free Patent No. 586435.[18] On January 31, 1979, the Cabanatuan City Register of Deeds issued OCT No. P-10119.[19]

On December 6, 1982,[20] Mendoza and Jose Gonzales (Gonzales) filed a protest against Valte's application, claiming to be "the lawful owner[s] and possessor[s] since 1930 thru predecessor-in-interest [and who] had been in actual uninterrupted, open, peaceful, exclusive[,] and adverse possession in the concept of an owner of the above-described property."[21]

Mendoza and Gonzales alleged that Valte procured Free Patent No. 586435 by means of fraud, misrepresentation, and connivance.[22] Specifically:

> In her application for Free Patent, applicant-respondent REYNOSA VALTE, willfully and fraudulently suppressed and omitted to state the material fact that the said land was in actual possession of the land claimants-protestants[,] and the improvements consisting of rice paddies and pilapiles were existing long before the time Reynosa Valte filed her free patent.[23]

In view of the protest, the Department of Environment and Natural Resources notified the parties on March 10, 1993 regarding an ocular investigation. Only Mendoza and Gonzales were present despite notice on Valte.[24]

On March 15, 1993, the Barangay Captain and other officials of San Isidro Lupao, Nueva Ecija executed a *Sinumpaang Salaysay* stating that they have been residents of the barangay since birth, that they know all the residents but do not know Valte, and that they are definite that there is no barangay resident with that name.[25]

Mendoza and Gonzales were mandated to present two (2) witnesses

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16 Id.
17 Id.
18 Id. at 127, Order of Approval.
19 Id. at 60, Original Certificate of Title No. P. 10119.
20 Id. at 47, Office of the President Decision dated April 26, 2000.
21 Id. at 35, Court of Appeals Decision.
22 Id.
23 Id. at 36.
24 Id. at 47, Office of the President Decision dated April 26, 2000.
25 Id. at 48, Office of the President Decision dated April 26, 2000.

during the investigation.[26] They presented Elmirando Sabado, who testified that:

> (1) he has been residing on the lot adjacent to the area in question since 1929; (2) he personally knows Mendoza and Gonzales who are his neighbors; (3) both Mendoza and Gonzales filed FPAs for the controverted land before 1982; (4) both Mendoza and Gonzales resided on the subject land on or before 1929; (5) no one has claimed nor interrupted their said occupation since 1929; (6) he does not know Valte who is claiming the lot and that no one had claimed the same; (7) Mendoza's father, Juan Mendoza, was the one who planted the acacia trees on the land sometime in 1949 and that, until now, there are still acacia and mango trees on the disputed lot aged twenty (20) years or more.[27]

The second witness, Agapito Pagibitan, executed an Affidavit attesting to the following:

> (1) he personally knows Mendoza and Gonzales; (2) he likewise knows that both Mendoza and Gonzales have been working in said area; (3) they are the real occupants of the lot which they have [been] tilling; (4) since 1929 no one came to the disputed area nor had claimed the same; (5) since 1929, Mendoza and Gonzales have been the ones who introduced improvements on the land such as mango, tamarind, acacia and star apple trees; (6) Mendoza and Gonzales have built their respective houses thereon which were made of cement-concrete materials with a pump to boot; (7) no one has been residing on the controverted lot except Mendoza and Gonzales.[28]

On March 30, 1993, Mendoza and Gonzales filed an amended protest alleging that Mendoza was in actual possession and cultivation of four (4) hectares, more or less; that Gonzales was in actual possession and cultivation of two (2) hectares, more or less; and that Procopio Vallega was in actual possession and cultivation of the rest of the land.[29] Also, the rice paddies and "pilapiles" had already been existing in the land even before Valte filed her free patent application,[30] and the District Land Officer failed to exercise due diligence in its evaluation and mistakenly recommended the grant of Valte's application that was based on fraud and misrepresentation.[31]

The Department of Environment and Natural Resources Secretary, in the Decision[32] dated January 20, 1994, ruled in favor of Mendoza and Gonzales:

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26 Id.
27 Id.
28 Id.
29 Id. at 55, DENR January 20, 1994 Decision Dated January 20, 1994.
30 Id. at 48, Office of the President Decision dated April 26, 2000.
31 Id. at 56, DENR Decision dated January 20, 1994.
32 Id. at 52–57. The Decision was penned by Secretary Angel C. Alcala.

> **WHEREFORE**, foregoing premises duly considered, the Regional Executive Director (RED) of DENR Region III is hereby directed to cause the **REVERSION** of the area covered by Original Certificate of Title (OCT) No. P-10119 of Reynosa Valte, through the Office of the Solicitor General in accordance with the pertinent provisions of Commonwealth Act (CA) No. 141, as amended. Claimants-Protestants Pedro Mendoza and Jose Gonzales and Procopio Vallega are hereby **ADJUDGED** to have the preferential right over the land in question pro rata to their area of actual occupation. Hence, they are GIVEN SIXTY (60) DAYS from the termination of the reversion proceedings to FILE their respective appropriate public land applications.
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> **SO ORDERED**.[33]

On March 20, 1994, Valte appealed before the Office of the President, raising violation of due process since the Department of Environment and Natural Resources' investigation was conducted ex parte without giving her the opportunity to be heard.[34]

The Office of the President, in its Decision dated February 10, 1997, set aside the January 20, 1994 Decision and ordered "the conduct of another formal hearing and thorough investigation of the case."[35]

Mendoza and Gonzales reiterated their claim of ownership and possession of the land since 1930 and the nullity of Valte's title for having been acquired through fraudulent means.[36] Their evidence was grounded mostly on the Department of Environment and Natural Resources' investigation results consisting of the *Sinumpaang Salaysay* of the Barangay Captain and officials and the statements of their two (2) witnesses.[37]

Valte countered that her father bought the land in 1941, and her mother ceded the land to her in 1978.[38] She then processed titling in her name.[39] She, through her administrator, Pacifico M. Vizmonte, maintained that Mendoza and Gonzales were tenants with no preferential right over the land.[40] She presented her free patent application and the Joint Affidavit of Procopio Vallega and Mendoza where Mendoza recognized Valte's exclusive claim and possession over the land.[41]

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33 Id. at 57, DENR Decision dated January 20, 1994.
34 Id. at 49, Office of the President Decision dated April 26, 2000.
35 Id. at 36, Court of Appeals Decision.
36 Id.
37 Id. at 37.
38 Id. at 36.
39 Id.
40 Id.
41 Id. at 36–37.

The Department of Environment and Natural Resources Secretary,[42] in the Decision dated March 11, 1999, found Mendoza and Gonzales to be mere tenants of the land[43] and dismissed the protest:

> In view on the foregoing, the Protest of Jose Gonzales and Pedro Mendoza against Free Patent Application No. (III-2) 124061 and Original Certificate of Title No. P-10119 in the name of Reynosa Valte is hereby dismissed for lack of merit.
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> **SO ORDERED.**[44]

The Office of the President, in its Decision[45] dated April 26, 2000, reversed the March 11, 1999 Decision and reinstated the January 20, 1994. It denied reconsideration.[46] The Decision's fallo reads:

> **WHEREFORE**, premises considered, the questioned decision dated March 11, 1999 is hereby **REVERSED** and **SET ASIDE**. The decision dated January 20, 1994 is hereby **REINSTATED** directing the Department of Environment and Natural Resources, through the Solicitor General, to cause the reversion of the area covered by Original Certificate of Title No. P-10119 of Reynosa Valte. Appellants Mendoza and Gonzales are hereby adjudged to have the preferential right over the subject land, *pro-rata* to their area of actual occupation, entitling them to file their respective public land applications within sixty (60) days after the termination of the reversion proceedings.
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> **SO ORDERED**.[47]

The Court of Appeals, in its September 8, 2000 Resolution, dismissed Valte's Petition for Review due to several defects, such as incomplete certification of non-forum shopping, failure to attach registry receipts in the affidavit of service, and lack of certified true copies of the material portions of the record referred to in the Petition.[48] It also denied reconsideration, which prompted Valte to file a Petition for Certiorari before this court.[49]

This court denied Valte's Petition due to late filing, lack of certification against forum shopping, and failure to sufficiently show that the Court of Appeals committed any reversible error. However, on reconsideration, this court reinstated Valte's Petition.[50] Respondents filed their Comment, and the parties filed their respective Memoranda. This

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42 The Decision was penned by Secretary Antonio H. Cerilles.
43 *Rollo*, p. 37, Court of Appeals Decision.
44 Id. at 44.
45 Id. at 47–51. The Decision was signed by Executive Secretary Ronaldo B. Zamora, by the authority of the President.
46 Id. at 38, Court of Appeals Decision.
47 Id. at 51, Office of the President Decision dated April 26, 2000.
48 *Valte v. Court of Appeals*, 477 Phil. 214, 222 (2004) [Per J. Carpio Morales, Third Division].
49 Id.
50 Id. at 223.

court, in its Decision[51] dated June 29, 2004, remanded the case to the Court of Appeals for decision on the merits:

> Considering that the resolution of the controversy between the parties revolves admittedly on factual issues and that these issues involve the regularity and legality of the disposition under the Public Land Law of 7.2293 hectares of public land to petitioner, this Court relaxes the rule on certification on forum shopping and directs the remand of the case to the Court of Appeals for decision on the merits.
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> **WHEREFORE**, the assailed Court of Appeals Resolutions of September 8, 2000 and January 12, 2001 are hereby SET ASIDE.
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> Let the case be REMANDED to the Court of Appeals for decision on the merits.
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> **SO ORDERED**.[52]

The Court of Appeals, in its Decision[53] dated December 28, 2005, reversed the Office of the President Decision and reinstated the March 11, 1999 Decision. It also denied reconsideration.[54] The Decision's fallo reads:

> **WHEREFORE**, premises considered, the Decision dated April 26, 2000 and Resolution dated July 14, 2000 of the Office of the President in OP Case No. 5942 is **REVERSED** and **SET ASIDE**. The decision dated March 11, 1999 of the Secretary of the Department of Environment and Natural Resources in DENR Case No. 7480 is hereby **REINSTATED**.
>
> **SO ORDERED**.[55]

Hence, Mendoza and Gonzales filed this Petition.

Mendoza and Gonzales submit that Valte employed fraud, misrepresentation, and connivance in her free patent application.[56] Lot 1035-B only has two (2) hectares, yet her application stated an area of 7.2255 hectares.[57] The Technical Description of Lot 1035-B in OCT No. P-10119 shows that Lot 1035-A covering three (3) hectares is under free patent application by Gonzales.[58] The Department of Agrarian Reform [Municipal Agrarian Reform Office] Certification states that Mendoza and Gonzales are tenants of a combined area of 2.6367 hectares, yet this does not explain

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51 *Valte v. Court of Appeals*, 477 Phil. 214 (2004) [Per J. Carpio Morales, Third Division].
52 Id. at 225.
53 *Rollo*, pp. 34–44. The Decision was penned by Associate Justice Rodrigo V. Cosico and concurred in by Associate Justices Regalado E. Maambong and Lucenito N. Tagle of the Seventh Division, Court of Appeals Manila.
54 Id. at 46, Court of Appeals Resolution.
55 Id. at 43, Court of Appeals Decision.
56 Id. at 26, Petition.
57 Id.
58 Id. at 27.

Valte's claim over the rest of the 7.2255 hectares.[59] Valte does not possess nor cultivate the land,[60] and her employment of tenants over 2.6367 hectares violates Presidential Decree No. 152.[61]

In her Comment, Valte counters that Mendoza and Gonzales cannot raise for the first time on appeal the issue arising from Gonzales' claim over Lot 1035-A with three (3) hectares.[62] Valte submits that "[i]f only petitioners raised this issue below, then respondent could have proven that petitioner Jose Gonzales' [three-hectare] land known as Lot 1035-A is distinct and separate from respondents' 7.2255 hectares land known as Lot 1035-B."[63] If Gonzales indeed owns two (2) hectares of Valte's land, then he should have included this in his free patent application for Lot 1035-A filed even before Valte's application.[64] Mendoza and Gonzales' tardiness in raising this issue and their inconsistent claims regarding land area show bad faith.[65] Valte claims that the argument that Lot 1035-B should be limited to two (2) hectares should be disallowed for being a change of theory on appeal[66] and for being belied by the Department of Environment and Natural Resources' factual findings.[67] Mendoza and Gonzales also amended their protest on March 30, 1993, which showed that they reduced their claim from 7.335 hectares to six hectares, with Mendoza in possession of four (4) hectares, Gonzales with possession of two (2) hectares, and Procopio Vallega with possession of the remaining area.[68] Valte adds the inapplicability of Presidential Decree No. 152 as this law applies only to lands of public domain, while the land in question has already been privately owned as early as 1929.[69] Valte's free patent application in 1978 was for the recognition of her vested title to the land.[70]

In their Reply, Mendoza and Gonzales submit that Valte failed to present evidence of ownership of the land now covered under OCT No. P-10119.[71] Petitioners contend that they "have consistently asserted that respondent has only an area of [one] hectare or two, and her FPA No. 12409 (E-590098) is tainted with misrepresentation by claiming that she owns all of [L]ots 1035-A, 1035-B, 1035-C, and 1035-D."[72] They submit that Valte's free patent application was for Lot No. 1035-B that has two (2) hectares, not 7.2255 hectares as Valte claimed, and she only presented a Deed of Sale

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59 Id. at 28.
60 Id. at 29.
61 Id. at 31.
62 Id. at 95, Comment.
63 Id. at 98.
64 Id. at 100.
65 Id. at 101.
66 Id. at 102.
67 Id. at 103–104.
68 Id. at 107.
69 Id. at 113.
70 Id. at 115.
71 Id. at 139, Reply.
72 Id. at 140.

covering Lot No. 1035-C that has 1.2829 hectares.[73] They reiterate that Gonzales owns the adjacent Lot 1035-A covered by OCT No. P-8211.[74]

The issues for resolution are:

First, whether this case falls within the exceptions that allow the examination of questions of fact before this court; and

Second, whether the Court of Appeals erred in reversing the Office of the President Decision that found fraud and misrepresentations by respondent Reynosa Valte in her free patent application

We deny the Petition.

A petition for review filed under Rule 45 may raise only questions of law. The factual findings by the Court of Appeals, when supported by substantial evidence, are generally conclusive and binding on the parties and are no longer reviewable unless the case falls under the recognized exceptions.[75] This court is not a trier of facts and we are not duty bound to re-examine evidence.[76] The existence or non-existence of fraud in an application for free patent depends on a finding of fact insofar as the presence of its requirements. As observed by the Court of Appeals, petitioner Mendoza admitted against his interest when he stated in his Joint Affidavit that respondent "has continuously occupied and cultivated the land."[77] Petitioners cannot also now raise the factual issue on land identity since a change of theory on appeal offends due process and fair play.[78] Unless it can be shown that irregularity tainted the free patent proceedings conducted before the Director of Lands, the presumption that official duty has been regularly performed[79] stands.

In any event, petitions for a review or reopening of a decree of registration based on actual fraud must be filed before the proper court within the one-year period provided under the relevant laws.[80] Section 101 of Commonwealth Act No. 141 allows actions for the reversion of land fraudulently granted to private individuals filed even after the lapse of the one-year period,[81] but this must be initiated by the state. As regards

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73 Id. at 141–142.
74 Id. at 143.
75 *Medina v. Court of Appeals*, G.R. No. 137582, August 29, 2012, 679 SCRA 191, 201 [J. Perez, Second Division].
76 Id.
77 *Rollo*, p. 40, Court of Appeals Decision.
78 *Borromeo v. Mina,* G.R. No. 193747, June 5, 2013, 697 SCRA 516, 524 [Per J. Perlas-Bernabe, Second Division].
79 RULES OF COURT, Rule 131, sec. 3(m).
80 Pres. Decree No. 1529 (1978), sec. 32.
81 *Republic v. Heirs of Alejaga, Sr.,* 441 Phil. 656, 663 and 674 (2002) [Per J. Panganiban, Third

Presidential Decree No. 152 that prohibits the employment of share tenants for purposes of complying with the requirements under the Public Land Act on entry, occupation, improvement, and cultivation of the land, the Municipal Agrarian Reform Office Certification dated March 27, 1995 on petitioners' tillage for a combined area of 2.6367 hectares does not disprove a finding of occupation and cultivation by respondent's parents over the land applied for since 1941.

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Respondent filed the free patent application pursuant to "Chapter VII of Commonwealth Act No. 141, as amended, or Republic Act No. 782 further as amended Republic Act No. 6236."[82] Section 44 of Commonwealth Act No. 141 reads:

> CHAPTER VII. Free Patents
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> Sec. 44. Any natural-born citizen of the Philippines who is not the owner of more than twenty-four hectares, and who since July fourth, nineteen hundred and forty-five or prior thereto, 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, or who shall have paid the real estate tax thereon while the same has not been occupied by any other 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 twenty-four hectares.[83]

Thus, the requisites for the issuance of a free patent are as follows: first, the applicant is a natural-born citizen of the Philippines; second, the applicant is not the owner of more than 12 hectares of land; third, the applicant has continuously occupied and cultivated, either himself or through his predecessors-in-interest, a tract or tracts of agricultural public land subject to disposition, for at least 30 years before the effectivity of Republic Act No. 6940; and fourth, the applicant has paid the real taxes

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Division], *citing Republic v. Court of Appeals*, 325 Phil. 636 (1994) [Per J. Mendoza, Second Division].

82 *Rollo*, p. 58, Free Patent Application.

83 Com. Act No. 141 (1936), as amended by Rep. Act No. 782 (1952), sec. 44. *See also Secretary of Department of Agrarian Reform,* G.R. No. 195412, February 4, 2015 <http://sc.judiciary.gov.ph/jurisprudence/2015/february2015/195412.pdf> 10 [Per J. Reyes, Third Division]. Section 44 has been amended by Republic Act No. 6940, March 28, 1990, to read:
SEC. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares & who, for at least (30) years prior to the effectivity of this amendatory Act, has continuously occupied & 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.
See also Del Rosario-Igbiten v. Republic of the Philippines, 484 Phil. 145, 157 (2004) [Per J. Chico-Nazario, Second Division].

thereon while the land has not been occupied by any other person.[84]

Section 91 of Commonwealth Act No. 141 provides for the consequences of false statements or omissions of facts made in an application:

> Sec. 91. The statements made in the application shall be considered as essential condition and parts of any concession, title, or permit issued on the basis of such application, and any false statement 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 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.[85]

Article 1456 of the Civil Code also provides that "[i]f 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."[86]

The identity of the land in controversy involves a factual question. This requires a delineation of actual boundaries and a review of the admissibility and credibility of documents such as deeds of sale and survey plans.[87] The presence or absence of fraud also involves a factual question.[88]

Only questions of law may be raised in a petition for review before

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84 *Encinares v. Achero,* 613 Phil. 391, 403 (2009) [Per J. Nachura, Third Division], *citing Republic v. Court of Appeals,* 406 Phil. 597, 606 (2001) [Per J. Ynares-Santiago, First Division].

85 Com. Act No. 141 (1936), sec. 91, as amended.

86 CIVIL CODE, art. 1456.

87 *Bagunu v. Spouses Aggabao,* 671 Phil. 183, 193 (2011) [Per J. Brion, Second Division].

88 *Republic of the Philippines v. Guerrero,* 520 Phil. 296, 306 (2006) [Per J .Garcia, Second Division].

this court.[89] This rule admits of exceptions,[90] and petitioners invoke these exceptions, in that the factual findings of the Court of Appeals and of the Office of the President are at variance with each other, the factual findings of the Court of Appeals are contrary to the parties' evidence, and the factual findings of the Court of Appeals were made with grave abuse of discretion.[91]

Questions of fact challenge the lower court's appreciation of evidence and factual conclusions, as opposed to questions of law that no longer deal with the probative value of evidence:[92]

> A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation.[93]

The Department of Environment and Natural Resources Secretary, the Office of the President, and the Court of Appeals rendered their Decisions based on their own appreciation of the evidence in determining whether respondent obtained the patent through fraudulent means.

The Department of Environment and Natural Resources Secretary's Decision dated January 20, 1994 gave credence to petitioners' witnesses' positive testimony regarding petitioners' actual possession of the land:

> After a thorough scrutiny of the entire records as well as an objective appraisal of the complete facts of the present case, We find the protest of Mendoza and Gonzales to be highly meritorious and the claim of Procopio Vallega, who is occupying one (1) hectare of the disputed premises, justifiable as the same has even been respected and acknowledged by the claimants-protestants herein. The witnesses of the claimants-protestants are both credible and hence, their positive testimony to the effect that the claimants-protestants have been in actual possession of the land in question cannot be simply disregarded and should be accorded great weight. WE hold that applicant-respondent Valte has never been in open, continuous, exclusive, peaceful and notorious possession of

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89 RULES OF COURT, Rule 45, sec.1.

90 *See for example Bagunu v. Spouses Aggabao,* 671 Phil. 183, 193 (2011) [Per J. Brion, Second Division], *citing Triumph International [Phils.], Inc. v. Apostol*, 607 Phil. 157 (2009) [Per J. Carpio, First Division].

91 *Rollo,* p. 30, Petition.

92 *Binayug v. Ugaddan,* G.R. No. 181623, December 5, 2012, 687 SCRA 260, 271 [Per J. Leonardo-De Castro, First Division].

93 Id. at 271–272, *citing Bukidnon Doctors' Hospital, Inc. v. Metropolitan Bank and Trust Co.,* 501 Phil. 516, 526 (2005) [Per C.J. Davide, Jr., First Division].

> the land in dispute[.][94]

After reinvestigation, the Department of Environment and Natural Resources Secretary's Decision dated March 11, 1999 dismissed the protest for lack of merit,[95] this time giving weight to the Joint Affidavit executed by petitioner Mendoza and Procopio Vallega on respondent's occupation of the land:

> The evidence on record preponderates to the fact that Reynosa Valte has preferential rights over the controverted lot. In fact, as early as 1978, in the report of Land Investigator Celedonio P. Bacena, it was found that the controverted land has been occupied and cultivated by Reynosa Valte, and previously by her predecessor-in-interest since 1945. Herein protestants, Pedro Mendoza and Procopio Vallega, thru an affidavit dated July 6, 1978 supported Reynosa Valte's application for free patent over the controverted land, under oath, confirmed that the latter has continuously occupied and cultivated the land since 1945 by herself and by her predecessors-in-interest. The aforestated joint affidavit is a very convincing documents [sic] to strengthen Reynosa Valte's assertions that, indeed, the protestants are tenants and that their rights on the controverted lot cannot rise higher than its source, that of Reynosa Valte.[96]

The Office of the President Decision dated April 26, 2000, in reinstating the January 20, 1994 Decision,[97] again accorded greater weight to petitioners' witnesses' positive testimony:

> After going through the evidence presented by the parties, we find the protest of appellants to be credible. The positive testimony of their witnesses, namely the barangay captain, the barangay officials as well as neighbors, to the effect that appellee was hardly or never seen cultivating nor possessing the subject premises cannot simply be disregarded. Rather, these testimonies should be accorded great weight and respect, as they come from individuals who could very well attest to the truth or falsity of appellee's claim that she was in "open, continuous, exclusive and peaceful" possession of the property in dispute.
>
> The declaration of appellee that she actually possessed the subject property and had cultivated the same, despite her full knowledge that Mendoza and Gonzales were the actual possessors and occupants, simply constitutes fraud as she failed to state this material fact in her application for free patent. Hence, the cancellation of OCT No. P-10119 issued in her favor is in order[.][98]

The Court of Appeals' December 28, 2005 Decision reversed and set aside the Office of the President Decision and reinstated the Department of

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94 *Rollo*, p. 56, DENR Decision dated January 20, 1994.
95 Id. at 47, Office of the President Decision dated April 26, 2000.
96 Id. at 49.
97 Id. at 51.
98 Id. at 50–51.

Environment and Natural Resources Secretary's Decision dated March 11, 1999.[99]

The Court of Appeals gave more weight to the Joint Affidavit of petitioner Mendoza and Procopio Vallega and discussed the reasons why the statements by petitioners' witnesses were not credible.

First, the statements of Elmirando Sabado and Agapito Pagibitan were taken during the ex parte investigation where respondent had no opportunity to present contrary evidence.[100] During the formal hearing and reinvestigation ordered by the Office of the President, respondent presented the Joint Affidavit where petitioner Mendoza admitted against his interest in the land by stating that "[t]he said applicant has continuously occupied and cultivated the land [herself] and/or thru h[er] predecessor-in-interest since July 4, 1945, or prior thereto and it is free from claims and conflicts."[101]

As regards the land area, the Court of Appeals discussed that "a perusal of the records and again the Joint Affidavit would reveal that they affirm that the property subject of the free patent application has an area of '7 hectares, 22 ares and 55 centares.'"[102]

Second, Elmirando Sabado and Agapito Pagibitan's statements that petitioners occupied the property as early as 1929 or 1930 appeared doubtful and unreliable. The Certification dated September 24, 1976 by Nueva Ecija Deputy Clerk of Court Prudencio P. Ciriaco states that other persons had possession of the land during this time, and these persons sold the land to respondent's father in 1941.[103] Also, Elmirando Sabado was only four years old in 1929, and he could not have had the comprehension to adequately inform himself on the concept of petitioners' alleged possession of the land.[104]

Third, even if petitioners' evidence were taken at face value, these would not sufficiently establish their possession since 1929 or 1930 and the nature of this possession.[105] On the other hand, the Municipal Agrarian Reform Office Certification dated March 27, 1995[106] reveals that petitioners' possession was merely that of tenants.[107]

Also, respondent's mother, Miguela dela Fuente, executed a

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99 Id. at 43, Court of Appeals Decision.
100 Id. at 39.
101 Id. at 40.
102 Id.
103 Id.
104 Id. at 40–41.
105 Id. at 41, Court of Appeals Decision.
106 Id. at 128. The Certification was signed by OIC-MARO Elizabeth C. Jara.
107 Id. at 41, Court of Appeals Decision.

Sinumpaang Salaysay dated September 12, 1978 stating that she and her husband bought the land in 1941, and they cultivated it and paid the taxes until they transferred its care to their daughter, Reynosa Valte, in 1964.[108]

The *Sinumpaalang Salaysay* reads:

> AKO si MIGUELA DELA FUENTE, 86 na taong gulang, Pilipino, biyuda ni Polcarpio Valte, at kasalukuyang nakatira sa 1826 Kalimbas, Sta. Cruz, Manila, matapos na ako ay sumumpa nang ayon sa umiiral na batas, ay malaya at kusang loob akong nagsaysay ng gaya ng mga sumusunod;
>
> Na, nang taong 1941, buwan ng Mayo, ako at ang namatay kong asawa na si Policarpio Valte, ay nakabili ng 3 lagay na bahagi ng palayang lupa na kung pagsama-samahin ay may parisukat na mahigit na 7 hectaryas at nasa sa baryo ng San Isidro, Lupao, Nueba Esiha;
>
> Na, ang isang lagay na may parisukat na 2 hectaryas humigit-kumulang ay nabili namin sa mag-asawang Francisco Maglaya at Maxima Benitez, ang ikalawang lagay na may parisukat na kulang na 2 hectarya ay nabili namin sa mag-asawang Nemesio Jacalan at Trinidad, Marta at ang ikatlong lagay ay parisukat na mahigit na 3 at kalahating hectaryas at ito ay nabili naman namin kay Laureano Pariñas at bawat lagay ay pawang bahagi ng Lote bilang 1035 ng sukat-cadastro bilang 144 ng Lupao, Nueba Esiha;
>
> Na, ang mga kasulatan ng bilihan namin nina Francisco Maglaya at Maxima Benitez at Laureano Pariñas ay kapua nawala nuong panahon ng digmaan maliban sa kasulatan ng bilihan namin sa mag-asawang Nemesio Jacalan at Marta Trinidad na hindi nawala;
>
> Na, matapos naming nabili ang nabang[g]it na 3 lagay na lupa nang taong 1941, ay inakupahan na namin at nagsimula na kaming gumawa sa lupa at pagkatapos ng digmaan at ipinagpatuloy naming muli ang paggawa tuloy binayaran namin ang kaukulang bayad sa buis patuloy hanggang sa kasalukuyan sa ilalim ng Tax Declaration bilang 645, 646[,] at 647 sa pangalan ng aking asawa na si Policarpio Valte na namatay sa Manila nuong ika 10 ng Febrero, 1963;
>
> Na, bagaman at nuon pang taong 1964 ko ipinaubaya sa aking anak na si Reynosa Valte ang pangangasiwa sa pagpapagawa sa nasabing lupa ay ginawa ko ngayon ang salaysay na ito upang sa pamamagitan ng kasulatang ito ay siyang magsilbing kasulatan ng paglilipat at pagsasalin ko ng buo kong karapatan sa lupa sa nasabi kong anak na si Reynosa Valte, may sapat na gulang, dalaga at naninirahan din sa 1826 Kalimbas, Sta. Cruz, Manila;
>
> Ang nasabing lupa na isinasalin at inililipat ko kay Reynosa ay walang gusot, walang pananagutang utang kangino man at ang salinan at lipatan ng karapatang ito ay walang kuartang kabayaran sa akin kundi ito ay dahil at alang-alang lamang sa pagmamahal at mabuting paglilingkod sa akin ng aking anak na si Reynosa;

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[108] Id.

> Sa katunayan ng lahat gaya ng matutunghayan sa gawing itaas nito ako ay lumagda ng aking pangalan ngayong ika 12 ng Septeyembre [sic], 1978, dito sa Lun[g]sod ng Cabanatuan.[109]

Lastly, petitioners failed to show any irregularity in the proceedings before the Director of Lands for respondent's patent application.[110]

The Court of Appeals ruled that petitioners were "not only . . . burdened to prove the . . . fraudulent representations" that respondent allegedly committed in her application "by clear and convincing evidence"; they were also "burdened to present sufficient evidence to overcome the presumption that official duties have been regularly performed and that the public documents which constitute [respondent's] evidence should not be given credence."[111] Petitioners failed to overcome this burden.[112]

II

Resolving questions of fact is a function of the lower courts.[113] This court is a collegiate body. It does not receive evidence nor conduct trial procedures that involve the marking of documentary evidence by the parties and hearing the direct and cross-examination of each and every witness presented for testimonial evidence. This court does not deal with matters such as whether evidence presented deserve probative weight or must be rejected as spurious; whether the two sides presented evidence adequate to establish their proposition; whether evidence presented by one party can be considered as strong, clear, and convincing when weighed and analyzed against the other party's evidence; whether the documents presented by one party can be accorded full faith and credit considering the other party's protests; or whether certain inconsistencies in the party's body of proofs can justify not giving these evidence weight.[114]

The doctrine on hierarchy of courts ensures that the different levels of the judiciary can perform its designated roles in an effective and efficient manner.[115] As the court of last resort, this court should not be burdened with functions falling within the causes in the first instance[116] so that it can focus

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109 Id. at 123, Sinumpaang Salaysay; *Valte v. Court of Appeals,* 477 Phil. 214, 225 (2004) [Per J. Carpio Morales, Third Division].

110 Id. at 41, Court of Appeals Decision.

111 Id. at 42–43.

112 Id. at 43.

113 *Angeles v. Pascual,* 673 Phil. 499, 505 (2011) [Per J. Bersamin, First Division].

114 Id.

115 *See Diocese of Bacolod v. COMELEC,* G.R. 205728, January 21, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/205728.pdf> [Per J. Leonen, En Banc] for its discussion on the roles of the different levels of the judiciary.

116 *Diocese of Bacolod v. COMELEC,* G.R. 205728, January 21, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/205728.pdf> [Per J. Leonen, En Banc], *citing Vergara v. Suelto,* 240 Phil. 719, 732–733 (1987) [Per J. Narvasa, First Division].

on its fundamental tasks under the Constitution.[117] This court leads the judiciary by breaking new ground or further reiterating precedents in light of new circumstances or confusion in the bench and bar.[118] Thus, "[r]ather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role."[119]

Since this court is not a trier of facts, we are not duty-bound to re-examine evidence already considered by the lower courts.[120] Factual findings by the Court of Appeals, when supported by substantial evidence, are generally conclusive and binding on the parties and will no longer be reviewed by this court.[121]

III

Nonetheless, the burden of proving that respondent employed fraud in her free patent application falls on petitioners who made this assertion.[122] Petitioners failed to overcome this burden.

In *Republic v. Bellate,*[123] this court discussed the nature of fraud as follows:

> [T]he fraud must consist in an intentional omission of facts required by law to be stated in the application or a willful statement of a claim against the truth. It must show some specific acts intended to deceive and deprive another of his [or her] right. **The fraud must be actual and extrinsic, not merely constructive or intrinsic; the evidence thereof must be clear, convincing[,] and more than merely preponderant**, because the proceedings which are assailed as having been fraudulent are judicial proceedings which by law, are presumed to have been fair and regular.[124] (Emphasis in the original)

Different kinds of fraud exist, but the law allowing fraud as a ground for a review or reopening of a land registration decree contemplates actual and extrinsic fraud.[125]

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117 Id., *citing Bañez, Jr. v. Concepcion,* G.R. No. 159508, August 29, 2012, 679 SCRA 237, 250 [Per J. Bersamin, First Division].

118 Id.

119 Id. at 14.

120 *Medina v. Court of Appeals,* G.R. No. 137582, August 29, 2012, 679 SCRA 191, 201 [Per J. Perez, Second Division].

121 Id.

122 *Republic of the Philippines v. Guerrero,* 520 Phil. 296, 310 (2006) [Per J. Garcia, Second Division], *citing Mangahas v. Court of Appeals,* 364 Phil. 12 (1999) [Per J. Purisima, Third Division].

123 G.R. No. 175685, August 7, 2013, 703 SCRA 210 [Per J. Brion, Second Divison].

124 Id. at 222, *quoting Libudan v. Gil,* 150-A Phil. 362 (1972) [Per J. Antonio, Second Division].

125 *Republic of the Philippines v. Guerrero,* 520 Phil. 296, 309 (2006) [Per J. Garcia, Second Division]. *See also Encinares v. Achero,* 613 Phil. 391, 404 (2009) [Per J. Nachura, Third Division].

Actual fraud "proceeds from an intentional deception practiced by means of the misrepresentation or concealment of a material fact."[126] Extrinsic fraud "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."[127]

Petitioners did not allege nor show any irregularity in the free patent application proceedings conducted before the Director of Lands. The presumption that official duty has been regularly performed[128] stands. The Court of Appeals' discussion of the processes that had been complied with in the proceedings before respondent's free patent application was approved is as follows:

> As borne by the records, the representatives of the Director of Lands conducted an investigation to ascertain the truth of the averments stated in petitioner's free patent application before it was approved. Petitioner was also required to present witnesses (thus, the joint affidavit of on Procopio Vallega and Pedro Mendoza) to attest to the truthfulness of the facts stated in the application. Petitioner likewise posted a notice of her free patent application in three conspicuous places in the municipality where the subject lot is located in compliance with Sections 45 and 46 of the above-law on the filing of adverse claims therein.[129]

IV

The free patent application dated July 6, 1978 for the land "[i]dentical to Lot No. 1035-B of plan Csd-03-000514-I"[130] states that the land contains an area of "7 hectares, 22 ares, and 55 centares, a sketch of which is attached."[131] This same area was stated in the Notice of Application for Free Patent.[132]

Petitioner Mendoza was one of the witnesses stated in respondent's free patent application, and he even executed the Joint Affidavit in Support of the Patent Application attesting to respondent's continuous occupation and cultivation of the land herself or through her predecessors-in-interest "since July 4, 1945, or prior thereto, and it is free from claims and conflicts."[133] Procopio Vallega and Mendoza declared in their Joint Affidavit as follows:

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126 Id.
127 Id., *citing Heirs of Roxas v. Court of Appeals,* 337 Phil. 41 (1997) [Per J. Romero, Second Division].
128 RULES OF COURT, Rule 131 sec. 3(m).
129 *Rollo,* p. 42, Court of Appeals Decision.
130 Id. at 58 and 124, Free Patent Application.
131 Id.
132 Id. at 126, Notice of Application.
133 Id. at 125, Joint Affidavit.

> 1. That we personally know Reynosa Valte who has filed Free Patent Application No. 2409 for a tract of land located in the Municipality of Lupao, Province of N. Ecija;
>
> 2. That we are actual residents of the said municipality of Lupao, Nueva Ecija and we know the land applied for very well;
>
> 3. That the said applicant has continuously occupied and cultivated the land himself and/or thru his predecessors-in-interest since July 4, 1945, or prior thereto and it is free from claims and conflicts;
>
> 4. That we are not related to the applicant either by consaguinity or by affinity and we are not personally interested in the land applied for; and
>
> 5. That to the best of our knowledge, belief and information, the applicant is a natural born citizen of the Philippines and is not the owner of more than twenty four (24) hectares of land in the Philippines.[134]

OCT No. P-10119 dated January 16, 1979 covers the same area of "7 hectares, 22 ares, 55 centares, according to the official plat of the survey thereof on file in the Bureau of Lands, Manila and described on the back hereof."[135]

Petitioners only filed their protest against respondent's free patent application on December 6, 1982, raising fraud regarding who has actual possession and cultivation of the land.[136] Based on the summary of facts in the Decisions below, they did not question land identity.

Petitioners now imply an overlapping of land in that Lot 1305-B does not have an area of 7.2255 hectares as this area includes the three-hectare Lot 1305-A in petitioner Gonzales' name.[137]

Petitioners argue in their Reply that they "have consistently asserted that respondent has only an area of [one] hectare or two, and, her FPA No. 12409 (E-590098) is tainted with misrepresentation by claiming that she owns all lots 1035-A, 1035-B, 1035-C[,] and 1035-D."[138] They submit that respondent's free patent application was for Lot No. 1035-B that has two (2) hectares, not 7.2255 hectares as respondent claimed, and she only presented a Deed of Sale covering Lot No. 1035-C that has 1.2829 hectares.[139]

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134 Id.; *Valte v. Court of Appeals,* 477 Phil. 214, 225 (2004) [Per J. Carpio Morales, Third Division].
135 Id. at 60, Original Certificate of Title.
136 Id. at 47, Office of the President Decision dated April 26, 2000.
137 Id. at 26–28, Petition.
138 Id. at 140, Reply.
139 Id. at 141–142.

Respondent counters that "[i]f only petitioners raised this issue below, then respondent could have proven that petitioner Jose Gonzales' [three-hectare] land known as Lot 1035-A is distinct and separate from respondents' 7.2255 hectares land known as Lot 1035-B."[140] If petitioner Gonzales indeed owns two (2) hectares of respondent's land, then he should have included this in his free patent application for Lot 1035-A filed even before respondent's application.[141] Respondent's Comment attached, among other documents, copies of Tax Declaration No. 05-14021-00489 in the name of Jose Gonzales covering Lot No. 1035-A with an area of 3 hectares[142] and Tax Declaration No. 05-14021-00111 in the name of Reynosa Valte covering Lot No. 1035-B with an area of 7.2255 hectares.[143]

Since this factual issue was not raised in the protest, it was not addressed in the Decisions below. The Decisions of the Department of Environment and Natural Resources Secretary, the Office of the President, and the Court of Appeals dealt with petitioners' submission that respondent employed fraud in claiming actual possession and cultivation of the land.

Claims of overlapping titles require the assistance of geodetic engineering experts, and trial courts often direct the Department of Environment and Natural Resources Land Management Bureau to conduct a verification/relocation survey.[144] There is no showing that petitioners questioned the survey that resulted in the 7.2255 hectare area of Lot 1305-B.

Petitioners cannot now raise the factual issue on land identity. A change of theory on appeal offends due process and fair play.[145]

V

The Notice of Application for Free Patent also provides that "[a]ll adverse claims to the tract of land above-described must be filed in the Bureau of Lands on or before the 7th day of August 1978. Any claim not so filed will be forever barred."[146]

Petitioners only filed their protest on December 6, 1982,[147] after

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140 Id. at 98, Comment.
141 Id. at 100.
142 Id. at 188, Tax Declaration No. 05-14021-00489.
143 Id. at 199, Tax Declaration No. 05-14021-00111.
144 *Heirs of Pabaus v. Heirs of Yutiamco,* 670 Phil. 151, 163 (2011) [Per J. Villarama, Jr., First Division].
145 *Borromeo v. Mina,* G.R. No. 193747, June 5, 2013, 697 SCRA 516, 524 [Per J. Perlas-Bernabe, Second Division].
146 Id. at 126, Notice of Application.
147 Id. at 47, Office of the President Decision dated April 26, 2000.

Patent No. 586435 had been issued on December 28, 1978[148] and even after the Registry of Deeds had issued Original Certificate of Title No. P-10119 on January 16, 1979.[149]

Section 32 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, governs the review of registration decrees:

> Section 32. Review of decree of registration; Innocent purchaser for value. The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to ***the right of any person***, including the government and the branches thereof, ***deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration,*** but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value. Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud.[150] (Emphasis supplied)

Petitioners did not explain why they did not file the proper petition before the trial court or within the one-year period as provided in Presidential Decree No. 1529 above. Their right to action, thus, already prescribed.

VI

Section 101 of Commonwealth Act No. 141 allows actions by the state for the reversion of land fraudulently granted to private individuals even when they are filed after the lapse of the one-year period.[151] However, the state has not yet initiated such case.

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148 Id. at 127, Approval of Application and Issuance of Patent.

149 Id. at 60, Original Certificate of Title.

150 Pres. Decree No. 1529 (1978), sec. 32.

151 *Alegria v. Drilon,* 580 Phil. 413, 419 (2008) [Per J. Carpio, First Division] and *Republic v. Heirs of Alejaga, Sr.,* 441 Phil. 656, 663 and 674 (2002) [Per J. Panganiban, Third Division], *citing Republic v. Court of Appeals*, 325 Phil. 636 (1996) [Per J. Mendoza, Second Division].

In any event, petitioners failed to overcome their burden to prove fraud by respondent in her claim of continuous occupation and cultivation of the land. As observed by the Court of Appeals, petitioner Mendoza admitted against his interest when he stated in his Joint Affidavit that respondent "has continuously occupied and cultivated the land."[152] Elmirando Sabado's testimony regarding petitioners' occupation of the land in 1929 also lacks credibility as he was only four years old in 1929.[153] This court has disregarded similar testimonies when it was shown that the witness was then too young to understand the concept of the possession of a large tract of land.[154]

VII

In her free patent application for the 7.2255-hectare land in Nueva Ecija, respondent declared that her "post office address is 1826 Kalimbas, Sta. Cruz, Manila."[155] In her Comment, she also recognized petitioners as her tenants but claimed that petitioner Mendoza's tillage is only 1.7759 hectares while petitioner Gonzales' tillage is only 0.7713 hectares.[156]

This court has ruled that an applicant's failure to state in the free patent application that other parties are also in possession of the land applied for "clearly constitutes a concealment of a material fact amounting to fraud and misrepresentation within the context of [Section 91 of Commonwealth Act No. 141, as amended], sufficient enough to cause ipso facto the cancellation of their patent and title."[157]

Interestingly, petitioner Mendoza was listed as a witness in respondent's free patent application,[158] and he even executed the Joint Affidavit appended to the application, declaring that the "applicant has continuously occupied and cultivated the land himself and/or thru his predecessors-in-interest since July 4, 1945, or prior thereto and it is free from claims and conflicts."[159]

Section 44 of Commonwealth Act No. 141 provides that the occupation and cultivation is "either by himself *or* through his predecessors-in-interest."[160] Section 44 applies to free patents while Section 48(b)

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152 Id. at 40, Court of Appeals Decision.
153 Id.
154 *See Republic of the Philippines v. Alconaba,* 471 Phil. 607, 619 (2004) [Per C.J. Davide, Jr., First Division].
155 Id. at 58, Free Patent Application.
156 Id. at 110 and 112, Comment.
157 *Heirs of Alcaraz v. Republic of the Philippines,* 502 Phil. 521, 531–532 (2005) [Per J. Garcia, Third Division].
158 Id. at 58, Free Patent Application.
159 Id. at 40, Court of Appeals Decision.
160 Com. Act No. 141 (1936), sec. 44. *See also Encinares v. Achero,* 613 Phil. 391, 403 (2009) [Per J. Nachura, Third Division], *citing Republic v. Court of Appeals,* 406 Phil. 597, 606 (2001).

governs judicial confirmation of an imperfect or incomplete title:

> While the above-quoted provision [Section 44] does provide for a 30-year period of occupation and cultivation of the land, Section 44 of the Public Land Act applies to free patents, and not to judicial confirmation of an imperfect or incomplete title to which Section 48(b) applies.
>
> The distinction between Sections 44 and 48(b) of the Public Land Act was recognized by Mr. Justice Puno, in his separate opinion in the case of *Cruz v. Secretary of Environment and Natural Resources,* in which he discussed the development of the Regalian doctrine in the Philippine legal system –
>
> > Registration under the Public Land Act and Land Registration Act recognizes the concept of ownership under the *civil law.* ***This ownership is based on adverse possession for a specified period***, and harkens to Section 44 of the Public Land Act on administrative legalization (free patent) of imperfect or incomplete titles and Section 48(b) and (c) of the same Act on the judicial confirmation of imperfect or incomplete titles.[161] (Emphasis supplied)

The Court of Appeals gave more weight to Miguela dela Fuente's *Sinumpaang Salaylay* dated September 12, 1978 regarding the cultivation of the land by respondent's parents, who are her predecessors-in-interest:

> [E]ven if we take respondents' [Mendoza and Gonzales] evidence at its face value, it does not sufficiently establish nor convey the purported fact and the nature of the latter's possession thereof and that such possession indeed started in the years 1929-1930. In any case, petitioner [Valte] was able to present a Certification from the MAPO dated March 27, 1995 which revealed that the nature of respondents' possession of the subject lot was merely that of tenants. In addition, petitioner was able to present the *Sinumpaang Salaysay* dated September 12, 1978 of Miguela dela Fuente, petitioner's mother who stated that she and her husband, Policarpio, bought the subject lot in 1941 and from then on until 1964, when the subject lot was transferred under the care of petitioner, she and Policarpio cultivated the same and paid the real property taxes thereon.[162] (Citations omitted)

VIII

Lastly, Presidential Decree No. 152, entitled Prohibiting the Employment or Use of Share Tenants in Complying with Requirements of Law Regarding Entry, Occupation, Improvement and Cultivation of Public

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[161] *Del Rosario-Igtiben v. Republic of the Philippines,* 484 Phil. 145, 157–158 (2004) [Per J. Chico-Nazario, Second Division].

[162] *Rollo,* p. 41, Court of Appeals Decision.

Lands, Amending for the Purpose Certain Provisions of Commonwealth Act No. 141, as Amended, Otherwise Known as the Public Land Act, was enacted on March 13, 1973. It provides that:

> 2. The employment or use of share tenants in whatever form for purposes of complying with the requirements of the Public Land Act regarding entry, occupation, improvement and cultivation is hereby prohibited and any violation hereof shall constitute a ground for the denial of the application, cancellation of the grant and forfeiture of improvements on the land in favor of the government.[163]

Petitioners argue that respondent does not possess nor cultivate the land,[164] and her employment of tenants over 2.6367 hectares violates Presidential Decree No. 152.[165]

Respondent counters that Presidential Decree No. 152 does not apply as this law applies only to lands of public domain, while the land has already been privately owned as early as 1929 and was already subject of cadastral proceedings.[166] She argues that her free patent application in 1978 was for the recognition of her vested title to the land.[167]

Petitioners' argument that they are tenants of the land, thus, respondent violated Presidential Decree No. 152, fails to convince.

The Director of Lands, subject to review by the Department of Environment and Natural Resources Secretary, has exclusive jurisdiction over the disposition and management of public lands.[168] Questions on the identity of the land require its technical determination.[169] Petitioners did not allege nor show any irregularity in the free patent application proceedings before the Director of Lands on the 7.2255-parcel of land; thus, the presumption that official duty has been regularly performed[170] stands.

Petitioners cannot rely on the Municipal Agrarian Reform Office Certification dated March 27, 1995 recognizing their tillage for a combined area of 2.6367 hectares.[171] This was only issued in 1995. It does not show that petitioners were employed as tenants for purposes of complying with the

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163 Pres. Decree No. 152 (1973).
164 *Rollo,* p. 29, Petition.
165 Id. at 31.
166 Id. at 113, Comment.
167 Id. at 115.
168 *Bagunu v. Spouses Aggabao,* 671 Phil. 183, 199–200 (2011) [Per J. Brion, Second Division], *citing* Section 5 of Exec. Order No. 192 and Section 3 of Commonwealth Act No. 141, as amended.
169 *Bagunu v. Spouses Aggabao,* 671 Phil. 183, 200 (2011) [Per J. Brion, Second Division], *citing Villaflor v. Court of Appeals*, 345 Phil. 524 (1997) [Per J. Panganiban, Third Division].
170 RULES OF COURT, Rule 131 sec. 3(m).
171 *Rollo,* p. 145, Reply.

requirements of the Public Land Act on occupation and cultivation of the land. It does not disprove a finding of occupation and cultivation over the land since 1941 by respondent's parents, her predecessors-in-interest. This Certification already states respondent as the landowner with title in her name:

Name of Landowner	: Reynosa Valte
Title No.	: OCT-P-10119
Survey No.	: Psd-03-024497 (OLT)
Location	: San Isidro, Lupao NE[172]

This court has also held that "once the patent is registered and the corresponding certificate of title is issued, the land ceases to be part of the public domain and becomes private property."[173]

Section 101 of Commonwealth No. 141 allows actions for the reversion of land fraudulently granted to private individuals filed even after the lapse of the one-year period,[174] but this must be initiated by the state.

WHEREFORE, the Petition is **DENIED**. The Court of Appeals Decision in CA-G.R. SP No. 60312 is **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

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172 Id. at 128, Certification.

173 *Republic v. Bellate,* G.R. No. 175685, August 7, 2013, 703 SCRA 210, 221 [Per J. Brion, Second Division]; *Lee v. Dela Paz,* 619 Phil. 514, 534 (2009) [Per J. Chico-Nazario, Third Division], *citing Director of Lands v. De Luna*, 110 Phil. 28, 31 (1960).

174 *Republic v. Heirs of Alejaga, Sr.*, 441 Phil. 656, 663 and 674 (2002) [Per J. Panganiban, Third Division], *citing Republic v. Court of Appeals*, 325 Phil. 636 (1996) [Per J. Mendoza, Second Division].

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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