

GREGORIO ABING, ET AL., PETITIONERS AND APPELLANTS, VS. AGO AMISTAD, ET AL., EXPOSITORS AND APPELLEES.*G.R. No. L-16254. October 26, 1961*

Ponente: BAUTISTA ANGELO, J.

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On September 23, 1957, Ago Amistad, et al., claiming to be owners of two parcels of land described in Plan Psu-142824, filed before the Court of First Instance of Baguio a petition for reopening of the Baguio Townsite Reservation case pursuant to Republic Act No. 931. After due notice and hearing wherein the government was represented by the Office of the Solicitor General, the court found that petitioners and their predecessors-in-interest have been in continuous possession of said parcels of land before July 26, 1894 but that on account of the fact that they were not given personal notice of the reservation case aforesaid, besides being illiterate, they were not able to file their claim therein and so the lands were declared to be parts of the public domain in a decision rendered on November 13, 1952. Consequently, the court rendered decision on April 21, 1958 ordering the registration of the two parcels of land in the name of the heirs of Amistad, the father having died in the meantime, while the heirs have not yet agreed to divide them nor filed any proceeding for the distribution thereof. This decision having become final, the court issued on June 26, 1958 an order directing the Commissioner of Land Registration to issue a decree in their favor, and complying therewith said Commisisoner issued Decree No. N-64617 on July 10, 1958 which was entered by the Register of Deeds of Baguio in his book on July 21, 1958, and Original Certificate of Title No. 0-6.

In consonance with the above decision, the heirs of Ago Amistad instituted on February 20, 1959 Special Proceeding No. 387 to settle his estate. However, before the expiration of the two-year period for the filing of claims against the estate as provided in Section 4, Rule 74, of the Rules of Court, the heirs sold the lands to Mrs. Gregoria Arnaldo for the sum of P68,263.00 by virtue of which Transfer Certificate of Title No. T-4047 was issued in her name. Because there were persons occupying the property, of said amount only the sum of P54,610.40 was paid, the balance having been withheld by Arnaldo until said occupants had vacated the premises.

On April 21, 1959, Gregorio Abing, et al., who were the occupants abovementioned, filed a petition in the Townsite Reservation case, which was amended on May 7, 1959, praying for the annulment of the proceedings had therein relative to said lands and for the cancellation of the titled issued thereon for the reasons, among others, that since July 4, 1945 they had been in continuous possession, occupation and cultivation of portions of the lands in question; that said lands never belonged to the Amistads because they were merely co-occupants or co-posseors; that the lands being portions .of the public domain, petitioners entered into a verbal agreement with the Amistads whereby the latter would secure a free patent for all of them under Republic Act No. 782; that after receiving from petitioners their contribution, the Amistads violated the trust reposed in them and fraudulently caused the registration of the land in their names; that after the Amistads had sold the lands petitioners came to know of theirs acts and machinations only when the purchaser asked petitioners to vacate them sometime in March, 1959 who offered them nominal sums for doing so, and that the purchaser did not act in good faith

because she bought the lands before the expiration of the period for the filing of claims against the estate.

To this petition the Amistads filed a written opposition, to which petitioners in turn filed a reply, and on June 16, 1959 the court issued an order dismissing the petition on the following grounds:

"* * * First—there is no allegation of actual fraud—the allegations at best make out a case for an action for reconveyance based on trust. Second—The amended petition is filed out of time. The original petition was defective—fatally so—so that the additional allegations in the amended petition cannot have retroactive effect and it is these additional allegations that have been filed after the one year period. Thirdly, there is an innocent purchaser for value. The fact that the purchase was made before the expiration of the period for filing claims against the estate of Amistad does not give rise to a presumption of bad faith—nor does the petition of heirs—in these two cases, the proper remedy would be before the intestate proceedings."

Petitioners interposed the present appeal.

The main issue to be determined is whether or not appellants can invoke in their favor, as they do, Section 38 of Act No. 496, which in part provides:

"* * * Such decree shall not be opened by reason of * * * nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest."

While the petition, as amended, was filed within the one-year period prescribed in the law, and it sets forth allegations of actual fraud perpetrated on appellants by appellees, nevertheless, we hold that appellants cannot avail of the benefit afforded by the portion of the law abovequoted principally because the land they claim to be entitled to is not private in nature but one that belongs to the public domain. And even if we may extend the scope of the application of said section to a person occupying a portion of the public land but who has an imperfect title and wants to register it in his name under the Public Land Law (Section 48 [b], C. A. No. 141, as amended by Republic Act 1142), still appellants' claim would fail because of their claim that they began their occupation only since July 4, 1945. Moreover, since they claim that the lands in question are of public nature and that their agreement with appellees was that the latter would secure a free patent from the government with the understanding that they would later allot the same among them proportionately, it is apparent that the land they ask to register belongs to the government and as such cannot be the subject of private registration. At any rate, the record shows that when the lands subject of this litigation were decreed in the names of appellees the government was notified but that its opposition notwithstanding they were registered in the names of appellees. The government did not insist in its opposition. It is clear, therefore, that appellants have no cause of action to file the present petition, their right, if any, being only subsidiary to that of the government (*Aduan, et al, vs. Alba, et al.*, 111 Phil., 668; 58 Off. Gaz. (45) 7383).

Wherefore, the order appealed from is affirmed, without pronouncement as to costs.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Paredes, and De Leon, JJ., concur.

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