

DIRECTOR OF LANDS, PETITIONER AND APPELLANT, VS. LELITA JUGADO, ET AL., RESPONDENTS. PHILIPPINE NATIONAL BANK, INTERVENOR AND APPELLEE.

G.R. No. L-14702. May 23, 1961

Ponente: DE LEON, J.

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DE LEON, J.:

This is an appeal from an order of the Court of First Instance of Negros Occidental dismissing a petition for the cancellation of a homestead patent.

There is no dispute as to the main facts. It appears that on November 26, 1956, the Director of Lands filed with the Court of First Instance of Negros Occidental a petition seeking to annul and cancel Homestead Patent No. V-28407 covering a parcel of land identified as Lot No. 2644, portion of Lot No. 2290 of the Himamaylan Cadastre, that province. Named respondent in the petition was Lelita Jugado to whom the homestead patent was issued on May 4, 1954, and the ground relied upon was that the patent aforesaid was fraudulently issued in favor of said respondent because the land is covered by a prior and subsisting approved homestead application of one Conrada Villavera.

On October 25, 1957, the Philippine National Bank, claiming to be a mortgagee in good faith of the property subject of the petition, moved to intervene in the proceedings, and after its motion was granted, the said entity filed an answer. This was soon followed by a motion to dismiss filed by the same intervenor, alleging as ground therefor that inasmuch as the petition to cancel was filed on December 5, 1956, more than one year had already elapsed since the issuance of the patent and the certificate of title in favor of respondent, and that, therefore, the said title had already become perfect, absolute and indefeasible.

After the usual responsive pleadings had been filed by both parties, the trial court, finding merit in the intervenor's motion, issued an order dismissing the petition. From the order of dismissal, the Director of Lands has appealed to this Court insisting that the provision of law (section 38 of Act 496), which limits to only one year the period within which to contest the validity of a certificate of title, is inapplicable in the instant case where a homestead patent is involved.

The main issue to be determined is whether or not the appellant's petition to cancel or annul Homestead Patent No. V-28407 issued to Lelita Jugado could prosper under the circumstances.

It has already been laid down as a doctrine in this jurisdiction that after the registration and issuance of the certificate and owner's duplicate certificate of title of a public land patent, the land covered thereby automatically comes under the operation of Act 496 and subject to all the safeguards provided therein (See *El Hogar Filipino vs. Olviga*, 60 Phil., 17; *Aquino vs. Director of Lands*, 39 Phil., 850; *Manalo vs. Lukban and Liwanag*, 48 Phil., 973). Section 38 of Act 496, otherwise called the Land Registration Act, prohibits the raising of any question concerning the validity of a certificate of title after one year from entry of the decree of registration. And the period of one year has been construed, in the case of public land grants, to begin from the issuance of the patent

(Sumail vs. C.F.I. of Cotabato, *infra*; Nelayan vs. Nelayan, 109 Phil., 183). It is not disputed that the patent in this case was issued way back in May, 1954, and that the petition to have it annulled was filed only on December 5, 1956, more than two years thereafter. Under the circumstances, therefore, the Director of Lands has no longer any right to contest the validity of the patent issued to Lelita Jugado. It may be well, in this connection, to quote the opinion of this Court in a similar case to wit:

"Well settled is the rule 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 over which the Director of Lands has neither control nor jurisdiction. (Sumail vs. Judge of the Court of First Instance of Cotabato, et al., 96 Phil., 946; 51 Off. Gaz., [5] 2413; Republic vs. Heirs of Ciriaco Carle, 105 Phil., 1231. And a public land patent when registered, is a veritable torrens title (Dagdag vs. Nepomuceno, 105 Phil., 216) and becomes indefeasible as a Torrens title (Ramoso vs. Obligado, 70 Phil., 86), upon the expiration of one year from the date of the issuance thereof (Lucas vs. Durian, G. R. No. L-7886, Sept. 23, 1957). As such it can no longer be cancelled and annulled." (Dir. of Lands vs. De Luna, G. R. No. L-14641, November 23, 1960).

There is, however, a section in the Public Land Law (sec. 101 of Commonwealth Act 141), which affords a remedy whereby lands of the public domain fraudulently awarded may be recovered or reverted back to its original owner, the Government. But the provision requires that all such actions for reversion shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Republic of the Philippines (See Director of Lands vs. De Luna, *supra*). As the party in interest in this case is the Director of Lands and not the Republic of the Philippines, the action cannot prosper in favor of the appellant.

In view of the foregoing, the order appealed from is hereby affirmed, but without prejudice to the Government's right to institute the proper action for reversion. Without special pronouncement as to costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, and Natividad, JJ., concur.

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