

SIMEON LUCAS, PLAINTIFF-APPELLANT, VS. JUAN L. DURIAN, THE HON. SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, THE DIRECTOR OF LANDS, AND THE REHABILITATION FINANCE CORPORATION...

G.R. No. L-7886. September 23, 1957

Ponente: FELIX, J.

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FELIX, J.:

This is an appeal from an order of the Court of First Instance of Isabela dismissing the complaint filed by Simeon Lucas (Civil Case No. 565), on the ground that the Court had no jurisdiction over the subject matter of the action and that plaintiff has no cause of action against therein defendants. The facts of the case may be summarized as follows:

On July 8, 1932, Marcelino Soto filed an application for homestead of a parcel of land located in San Mateo, Isabela. Said application, H.A. No. 188207 (E-98781) was duly approved by the Director of Lands on May 16, 1933, whereupon applicant was authorized to enter the land. On February 13, 1941, Soto transferred his rights in favor of Simeon Lucas and said transfer was approved by the Secretary of Agriculture and Commerce on March 13, 1947. Simeon Lucas thereafter filed Ms. final proof for the land and on September 16, 1947, presumably upon recommendation of the Public Land Inspector, the Director of Lands ordered the issuance of the patent in the name of said applicant. There is no showing that a homestead patent was actually issued in the name of Simeon Lucas, but it appears on record that on October 27, 1949, one. Jose Basilio filed a protest with the Bureau of Lands (B.L. Conflict No. 229-N) against H.A. No. 188207 of Simeon Lucas alleging that the parcel of land covered by said application was also the subject of H.A. No. 109805 in the name of Mariano Bautista who was the occupant of the property from 1925 and which right was transferred to said protestant in 1940.

An ex-parte investigation was subsequently conducted by the District Land Officer of Isabela who rendered decision on January 15, 1953, cancelling the homestead application No. 188207 (E-98781) of Marcelino Soto, rejecting H.A. No. 109805 of Mariano Bautista and accepting and giving due course to the new application of Jose Basilio Simeon Luca's filed a motion to reconsider this decision on March 17, 1953, which motion apparently is still pending resolution by the Bureau of Lands.

The records show, on the other hand, that the same Lot No. 2980 of the cadastral survey of Santiago, Isabela, was, likewise covered by H.A. No. 222352 of Ricardo Deloso which was filed with the Bureau of Lands on March 18, 1938, and approved on May 21, 1938. This applicant, however, transferred his rights to Juan L. Durian and said transfer was duly approved by the Secretary of Agriculture and Natural Resources on July 14, 1948. On September 1, 1948, Juan L. Durian filed his final proof papers and upon favorable recommendation of the Public Lands Inspector, the Director of Lands approved the same on September 24, 1948. Consequently Homestead Patent No. V-2367 was issued to on March 29, 1949, which was duly registered with the, Register of Deeds" of Isabela and Original Certificate of Title No. P-655 in the name of Juan L. Durian was issued.

On April 6, 1953, Simeon Lucas claiming that it was only then that he learned of the issuance of the title to Juan L. Durian, filed a complaint with the Court of First Instance of Isabela for "annulment and reconveyance", alleging that despite knowledge of the existence of his application, Juan L. Durian in connivance with Public Land Inspector Tomas Cruz was able to have his application approved by the Director of Lands; that said defendant was able to secure Homestead Patent No. V-2367 by concealing the fact that there were" two pending claims over the same parcel of land, that of plaintiff and of Jose Basilio; that the issuance of Homestead Patent No. V-2367 in favor of defendant was based on false and simulated facts reported by inspector Tomas Cruz, in violation of the rights allegedly acquired by plaintiff in virtue of his perfected homestead application; and that the issuance of said patent was irregular, illegal, null and void. It was, therefore, prayed that judgment be rendered ordering the annulment of Homestead Patent No. 7-2367, the cancellation of Original Certificate of Title No. P-655 or that defendant Durian be ordered to reconvey to plaintiff the land in question, after releasing it from the mortgage constituted on said land in favor of the Rehabilitation Finance Corporation; for actual damages in the amount of P1,000.00; for moral damages in the sum of P1,000.00; for exemplary damages in the amount of P2,000.00; for costs, and for such other relief as may be deemed just and equitable in the premises .

The Secretary of Agriculture and Natural Resources and the Director of Lands, through counsel, filed their answer admitting some of the averments of the complaint, but as special defenses they contended that plaintiff possessed no sufficient title to the parcel of land in question; that the land in question was a part of the public domain and the administration, supervision, control, disposition and management thereof was in the hands of the Director of Lands subject to the immediate control of the Secretary of the Department; that the issuance of the certificate of title in favor of defendant Juan L. Durian was regular; that it was only upon receipt of the summons in Civil Case No. 565 that the Bureau of Lands became aware that the land covered by Homestead Patent No. V-2367 of Juan L. Durian was embraced in H.A. No. 188207 (E-98781) of Marcelino Soto and H.A. No. 109805 of Mariano Bautista, now claimed by the transferees Simeon Lucas and Jose Basilio, respectively; that Simeon Lucas failed to file a formal protest with the Bureau of Lands against the application of Durian; that it was only in, April, 1953, or 4 years after Patent No. V2367 was issued to said defendant that plaintiff filed that action; that Simeon Lucas had no personality to assail the validity of the patent issued to Juan Durian because upon registration of said patent and the corresponding issuance of the certificate of title, the land subject of the grant became a registered G.R. No. L-7886 private land, and if ever the patent could be annulled on the ground of fraud, the proper party to bring the same would be the Government. Hence it was prayed that the complaint be dismissed.

The Rehabilitation Finance Corporation, which was also made a party-defendant, filed its answer denying the averments of the complaint in so far as it alleged that it acted in bad faith in granting the loan to Juan L. Durian, contending that when said loan for P2,300.00 was secured upon the constitution of a mortgage on O.C.T. No. P-655, said title appearing in the name of Juan L. Durian had no lien or encumbrance whatsoever. It was thus prayed that the complaint be dismissed as against that bank and in the event that O.C.T. No. P-655 would be cancelled, that the loan with the bank be fully paid first including the interests and charges thereon.

On June 26, 1953, defendant Juan L. Durian filed a motion to dismiss the complaint alleging that the court had no jurisdiction over the subject of the action because, as it involved public land, jurisdiction rested on the land department, and that plaintiff had also no cause of action. After plaintiff had filed an opposition to said motion, the Court issued an order dismissing the complaint on the ground that if plaintiff had any cause of action at all, he should have prosecuted the same in the Bureau of Lands which has jurisdiction to settle conflicts between public land applicants. As it was not claimed that the property in question was a private property but a public land, the proper party to bring the action for the cancellation of a patent allegedly obtained through fraud would be the Government and not plaintiff Simeon Lucas, and the latter had therefore no personality to prosecute this case. As the Court denied the motion for reconsideration filed by plaintiff, the matter was brought to this Court on appeal.

From the foregoing recital of facts, it is clear that Lot No. 2980 of the Santiago Cadastre, Cad. No. 211, admittedly a disposable land of the public domain, was the subject of 3 homestead applications of 3 different persons which, surprisingly, were all approved by the Director of Lands. In at least two of them - the applications of Marcelino Soto which was transferred to Simeon Lucas, and of Juan L. Durian in lieu of the original applicant Ricardo Deloso - the Director of Lands ordered the issuance of the corresponding patents upon favorable recommendation and most likely after the necessary inspection of the property by the Public Land Inspector of that region. Although the records failed to prove that a patent was actually issued in favor of Simeon Lucas, yet the allegation by said applicant that an order to that effect was made by the Director was never denied by the adverse party. We also notice that when Jose Basilio filed a protest in 1949 against H.A. No. 188207 (E-98781) of Marcelino Soto, patent over said land was already issued and duly registered in the name of Juan L. Durian, but despite this fact the controversy between applicants Basilio and Lucas was entertained and a decision was even arrived at by the District Land Officer of Isabela, cancelling the application of Marcelino Soto or the transferee Simeon Lucas, rejecting the application of Mariano Bautista and even accepting the new application of Jose Basilio, which goes to show that said official was unaware that the property was already awarded to another. We find nothing from the records that may clarify this situation and We cannot help but conclude that somewhere negligence or even fraud must have actually taken a major role, this unexplained state of affairs notwithstanding. We have to determine in this instance whether or not the lower court acted correctly in dismissing the complaint in the case at bar.

There is no controversy that Simeon Lucas was an applicant of a part of the disposable lands of public domain. He never claimed this land to be his own although he asserts that upon perfection of his application and compliance with all the terms and conditions, which would entitle him to a patent, he acquired a vested interest therein which he could not be deprived of without due process of law.

We cannot really overlook the fact that plaintiff Simeon Lucas had already filed his final proof and that the Director of Lands even ordered the issuance of a patent in his favor in 1947 or even before a similar order was issued in favor of Juan L. Durian, his gives rise to the presumption that plaintiff must have complied with all the requirements of the law although for reasons unknown to Us, such order was not carried out. Considering the principle enunciated in *Balboa vs. Parr ales*, 51 Phil. 498, that:

"A perfected homestead, under the law, is property in the highest sense, which may be sold or conveyed and will pass by descent. A valid and subsisting perfected homestead, made and kept up in accordance "with the provisions of the state, has the effect of a grant of the present and exclusive possession of the land. Even without a patent, a perfected homestead is a property right in the fullest sense, unaffected by, the fact that the paramount title to the land is in the Government. Such land may be conveyed or inherited."

there seems to be no question that Simeon Lucas has an interest in the property. But granting that he was unduly deprived of said interest, could he be granted the relief he is asking for in this case?

Applicants for homestead are required to post in 3 conspicuous places in the municipality where the property is located notice of intention to make final proof relative to the homestead application. In the case at bar, Juan L. Durian proved that he was able to post one in the municipal building, one in the barrio bulletin board and one on the land subject of his application, notices containing the following exhortations

"All adverse claims to the tract of land described in H.A. No. 222352 (E-125712) must be filed with the official named thereon or with the District Land Officer at the locality or in the Bureau of Lands, Manila, on or before the date specified in the above notices and that any claim not so filed oh or within the period stated will be barred forever",

and it is argued by defendants that plaintiff Simeon Lucas had not filed his protest in accordance therewith.

Taking into account the provisions of Commonwealth Act No. 141 which provides that:

SEC. 4. Subject to said control (of the Secretary of Agriculture and Natural Resources), the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture and Commerce,

it seems clear that the Director of Lands has the power to determine the qualifications of applicants, whether they have complied with the conditions required by law, who among several applicants is entitled to the grant or to settle conflicts between applicants. Protests against applications should be lodged before the Director of Lands to whom the administration and distribution of public lands are vested by law, subject of course to the immediate control of the Secretary of the Department. It appearing that plaintiff failed to bring to the attention of the proper officials the existence of his claim by means of protest, he cannot now seek relief in the courts of justice for he should have first exhausted all the administrative reliefs then available to him (*Miguel et al. vs. Reyes et al.*, G. H. No. L-4851, July 31) 1953). He cannot claim that he was not duly notified because the proceedings partook of the nature of one in rem and the posting' of the notice of intention to make final proof, accomplished by applicant Juan L. Durian for a period of one month as required by law, served as an announcement to all adverse parties and interests affected and to the whole world in general that such an application existed.

Furthermore, it appears that Original Certificate of Title No. P-655 covering the parcel of land in question was already issued in the name of Juan L. Durian sometime in 1949. A certificate of title issued pursuant to a homestead patent of partakes the nature of a certificate issued in a judicial proceeding, as long as the land disposed of is really a part of the disposable land of the public domain (*El Hogar Filipino vs. Olviga*, 60 Phil. 22; *Ramoso vs. Obligado*, 70 Phil. 86, and others), and becomes indefeasible and incontrovertible upon the expiration of one year from the date of the issuance thereof.

We do not forget that plaintiff, in the action commenced in the lower court, prayed for the reconveyance of the property to him, but we can say at this juncture that plaintiff is not entitled to this relief. He never claimed the property in controversy to be his, for he even admits that his application was even cancelled by the District Land Officer of Isabela, although a motion for the reconsideration of the same was filed which up to the present is apparently still pending resolution. There is even no need to mention the fact that according to defendants, his application was cancelled for violation of the provisions of the Public Land Act, because it is imperative in an action for reconveyance that the party seeking this relief must prove that he is the owner of the property registered in the name of another through fraud.

As an alternative, plaintiff also prayed that patent V-2367 be annulled and consequently O.C.T. No. P-655 be cancelled, on the ground that said patent was obtained through fraudulent means.

A certificate of title, be it original or a duplicate, may only be ordered cancelled under special circumstances, and one of them is when the title is void. And a title will be considered void if it is procured through fraud as when a person applies for the registration of a land in his name although he knows that the property belongs to another (*Bruce vs. Apurado*, 26 Phil. 581; *Angelo vs. Director of Lands*, 49 Phil. 838); if title is issued for a land already covered by a prior Torrens title; when it covers land reserved for military, naval, or civil public purposes; when it covers a land which has not been brought under registration proceedings, and in the case of disposable public lands, failure on the part of the grantee to comply with the conditions imposed by law (*Noblejas' Land Titles and Deeds*, p. 111-113). It could be gleaned from the foregoing enumerations that the only instance when, a certificate of title covering a tract of land, formerly a part of the patrimonial property of the State, could be cancelled, is for failure on the part of the grantee to comply with the conditions imposed by law, and in which case the proper party to bring the action would be the Government to which the property would revert.

WHEREFORE, and finding no error in the order appealed from the same is hereby affirmed, without pronouncement as to costs.

IT IS SO ORDERED.

Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.
Paras, C.J., and Labrador, J., in the result.
Montemayor, J., I reserve my vote.

CONCURRING

PADILLA, J.:

I concur in the result. Lands of the public domain are not patrimonial property of the State. Whether section 33 of Act No. 496 is applicable to Torrens certificates of title issued upon patents need not be passed upon, because if the parcel of land applied for does not form part of the public domain, the patent and the Torrens certificate of title issued upon it are null and void. If there is an irregularity in the issuance of the patent, such irregularity should be threshed out and determined administratively and it is only after the administrative remedies shall have been exhausted that the aggrieved party may resort to the courts. The re-opening of the proceedings in rem within one year from the decree upon the ground or by reason of fraud in securing the decree may be had only in cases where the decree had been entered after and as a result of judicial proceedings, as provided for in Act No. 496, as amended.

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