

**ANA GONZAGA, SERVILLANO IGNACIO AND ANASTACIA SAN JUAN,
PETITIONERS-APPELLANTS, VS. COURT OF APPEALS, BONIFACIO
EVANGELISTA, JOSE EVANGELISTA CHUA, PAULINO EVANGELISTA,
PEDRO TR...**

G.R. No. L-27455. June 28, 1973

Ponente: FERNANDO, J.

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FERNANDO, J.:

It must have been well-founded doubts about the strength of the original position taken by petitioners both in the Court of First Instance of Rizal and subsequently in respondent Court of Appeals, that in this appeal by certiorari from the decision of the latter tribunal, a novel aspect is sought to be introduced by them. It represents a last-ditch effort in their thus far hopeless quest for excluding private respondents, nephews and nieces of the late Juan Evangelista, from any share in that portion of his estate sold by his widow, petitioner Ana Gonzaga, to the other petitioners. The point raised by them, not previously passed upon by this Court, is that the requirement in Section 20 of the Public Land Act,[1] couched in absolute terms, of the previous approval of the Secretary of Agriculture and Natural Resources for the proposed sale of the rights of one seeking a free patent, does not apply unless the application deals with a homestead.[2] It is their contention that if such interpretation be adopted, then the decision adverse to them, both in the lower court as well as in respondent Court of Appeals, should be reversed. We do not feel called upon to rule squarely on such an issue, as the factual basis thereof is completely lacking, not only as shown in the decision of respondent Court sought to be reviewed, but also as reflected in the answer of petitioners in the lower court as well as in their brief with the respondent Court. Such an omission has consequences fatal to their belated claim. What is more, the approach followed by petitioners is not in conformity with our past pronouncements, which had indicated the fullness of the power of the state as to how public lands may be acquired and under what conditions, as well as the restrictions imposed on original applicants, who could thus legally be prevented from being victimized as a result of improvidence or even poor judgment, by requiring such approval. As thus viewed, it would clearly appear that this appeal by way of certiorari lacks merit. We affirm.

There was a stipulation of facts before the lower court which was quoted in the decision of the Court of Appeals. Thus: "1. That on October 13, 1958, Juan Evangelista died intestate, leaving among others, a parcel of land situated in Barrio Darangan, [Municipality] of Binangonan, [Province] of Rizal, covered by [Original Certificate] of Title No. 183 of the Register of Deeds of Rizal and Tax [Declaration] No. 12131 of the [Provincial] Assessor of Rizal, which parcel is now the subject of this litigation; 2. That said Juan Evangelista was survived by the defendant, Ana Gonzaga and plaintiffs, the latter being the sons and daughters of the brothers and sisters of the deceased; 3. That during the lifetime of Juan Evangelista, he and said Ana Gonzaga on April 21, 1956 sold for valuable consideration several parcels of land to the spouses, Anastacia San Juan and Servillano Ignacio (defendants herein) including that parcel of land described in the foregoing paragraph (1) and as a consequence of which sale, the corresponding tax declaration was transferred (to) said vendees; that at the time of said sale, there

was a pending application of Juan Evangelista and Ana Gonzaga over the land in question with the Bureau of Lands, but the title thereto was not issued until November 28, 1958, i.e., after the death of Juan Evangelista; 4. That on April 21, 1962, defendant Ana Gonzaga alleging to (be) the surviving spouse of the deceased Juan Evangelista, executed an Extra-Judicial Partition and Sale of the same parcel of land in question in favor of the same vendees, herein defendants, Servillano Ignacio and Anastacia San Juan; 5. That in a series of subsequent transfers and conveyances, the same parcel of land was sold on March 6, 1963 by the spouses Servillano Ignacio and Anastacia San Juan to the defendant R & R Realty Co., Inc. and the latter, together with other properties owned by it, mortgaged the same to the Continental Bank; that it was by reason of these subsequent conveyances that defendants Filipinas Agricultural & Realty Co., R & R Realty Co., Inc. and the Continental Bank were impleaded as party defendants."[3] On the above facts, the lower court relying on the aforesaid Section 20, declared the 1956 sale void and consequently ruled in favor of the successional rights of private respondents as heirs of the deceased, Juan Evangelista. Respondent Court of Appeals affirmed.

As set forth at the outset, there is no legal basis for reversing the decision of respondent Court.

1. Petitioners are well aware and therefore cannot deny that unless the sale made by the deceased Juan Evangelista in his lifetime of the disputed lot was valid, then the rights of private respondents as his heirs should be respected. Both the lower court and respondent Court of Appeals were agreed that considering the express and categorical language of Section 20 of the Public Land Act, such sale "shall be null and void" there being no "previous approval" of the Secretary of Agriculture and Natural Resources. It could not have been otherwise, for there is nothing in the stipulation of facts that would, in any way, take this transaction out of the operation of that legal provision. It has been repeated time and time again that where the statutory norm speaks unequivocally, there is nothing for the courts to do except to apply it. The law, leaving no doubt as to the scope of its operation, must be obeyed. Our decisions have consistently been to that effect.[4] Now petitioners before this Court apparently would try to extricate themselves from what for them is an untenable situation by alleging that it was not a homestead that was applied for by the deceased. Such a contention does not carry persuasion. There was no such allegation in their answer filed before the lower court.[5] There was nothing to that effect in the stipulation of facts. After losing in the lower court, there was not even a motion for reconsideration filed. The matter was immediately taken to respondent Court of Appeals. In their brief before respondent Court of Appeals, again, such a defense now interposed is conspicuous by its absence, the two paragraphs devoted to that point merely confining itself to the assertion that the Public Land Act does not prohibit an applicant from selling his rights and interests during his application for a free patent.[6]

Apparently realizing the weakness that characterized their vain effort to prevent private respondents from enjoying their successional rights, an attempt is made by petitioners in this appeal by way of certiorari as well as in their brief, to mitigate its shortcoming by raising what in effect is a new matter, namely, that the application was not for a homestead. Outside of such an assertion lacking support in the facts as found by respondent Court, to which we must accord deference, there is another obstacle to its being considered. Such an issue was not raised before the lower court. It was not even brought to the attention of respondent Court of Appeals. What was said, therefore, in the recent case of *Arangco vs. Baloso*[7] has relevance. Thus: "As far back as 1904, in *Tan Machan vs. Trinidad*, for the appellate tribunal to consider a legal question, it must be raised in the court below. Such a principle has been consistently adhered to. As was categorically announced in *City of Manila vs. Roxas* by Justice Hull, 'the rule is almost universal, and it has been repeatedly followed by this court x x x.'"[8] It cannot be said then that respondent Court erred in affirming the decision of the lower court, declaring the nullity of the sale dated April 21, 1956 executed without the approval of the Secretary of Agriculture and Natural Resources. Thus is the first assigned error disposed of.

2. The principal argument, thus exposed as devoid of any persuasive force, was sought to be strengthened in the second assignment of error by an attempted distinction between the limitation placed on the grantee after the free patent is issued and the absence thereof prior thereto, except if the application is for a homestead. That, in effect, is the error imputed to respondent Court under this category. Petitioners again labor under a misapprehension. Section 118 of the Public Land Act^[9] reads: "Except in favor of the Government or any of its branches, units, or institutions, or legally constituted banking corporations, lands acquired under the free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period; but the improvements or crops of the land may be mortgaged or pledged to qualified persons, associations, or corporations." Is it not a clear expression then of the state policy to assure that the original grantee, even if he were minded otherwise, is deprived for a period of five years of his freedom of disposition? Thus is he protected from his own weaknesses or temptation to sell, or lack of business acumen, the purpose being, in the language of Justice J.B.L. Reyes in *Artates vs. Urbi*,^[10] to keep and preserve for him "or his family the land given to him gratuitously by the State, so that being a property owner, he may become and remain a contented and useful member of our society."^[11] Considering that such is the policy, does it not logically follow that he is precluded from disposing of his rights prior even to his obtaining the free patent? Both policy and reason, therefore, unite in the conclusion that no such distinction should be made. Then, too, it is not to be forgotten that the state is possessed of the plenary power as the persona in law to determine who shall be the favored recipients of public lands, as well as under what terms they may be granted such privilege, not excluding the placing of obstacles in the way of their exercising what otherwise would be ordinary acts of ownership?^[12]

3. The third assigned error impugning the judgment of respondent Court of Appeals in favor of appellees before it, now private respondents, being a logical consequence of the foregoing, need not be discussed at all.

WHEREFORE, the decision of February 24, 1967 is affirmed. With costs against petitioners.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Commonwealth Act No. 141 (1936).

[2] According to Section 20 of Commonwealth Act No. 141: "If at any time after the approval of the application and before the patent is issued, the applicant shall prove to the satisfaction of the Director of Lands that he has complied with all the requirements of the law, but can not continue with his homestead, through no fault of his own, and there is a bona fide purchaser for the rights and improvements of the applicant on the land, and that the conveyance is not made for purposes of speculation, then the applicant, with the previous approval of the Secretary of Agriculture and [Natural Resources], may transfer his rights to the land and improvements to any person legally qualified to apply for a homestead, and immediately after such transfer, the purchaser shall file a homestead application to the land so acquired and shall succeed the original homesteader in his rights and obligations beginning with the date of the approval of said application of the purchaser. Any person who has so transferred his rights may again apply for a new homestead. Every transfer made without the previous approval of the Secretary of Agriculture and [Natural Resources] shall be null and void and shall result in the cancellation of the entry and the refusal of the patent."

[3] Decision of respondent Court of Appeals, Appendix A to Brief for Petitioners-Appellants, 22-23.

[4] Cf. *People vs. Mapa*, L-22301, Aug. 30, 1967, 20 SCRA 1164; *Pacific Oxygen & Acetylene Co. vs. Central Bank*, L-21881, March 1, 1968, 22 SCRA 917; *Dequito vs. Lopez*, L-27757, March 28, 1968, 22 SCRA 1352;

Padilla vs. City of Pasay, L-24039, June 29, 1968, 23 SCRA 1349; Garcia vs. Vasquez, L-26808, March 28, 1969, 27 SCRA 505; La Perla Cigar and Cigarette Factory vs. Capapas, L-27948 and 28001-11, July 31, 1969, 28 SCRA 1085; Mobil Oil Phil. Inc. vs. Diocares, L-26371, Sept. 30, 1969, 29 SCRA 656; Luzon Surety Co., Inc. vs. De Garcia, L-25659, Oct. 31, 1969, 30 SCRA 111; Vda. de Macabenta vs. Davao Stevedore Terminal Co., L-27489, April 30, 1970, 32 SCRA 553; Republic Flour Mills, Inc. vs. Commissioner of Customs, L-28463, May 31, 1971, 39 SCRA 269; Maritime Co. of the Phil. vs. Reparations Commission, L-29203, July 26, 1971, 40 SCRA 70; Allied Brokerage Corp. vs. Commissioner of Customs, L-27641, Aug. 31, 1971, 40 SCRA 555.

[5] Cf. Answer, Record on Appeal, 47.

[6] Cf. Brief for defendants-appellants in the Court of Appeals, 6-7.

[7] L-28617, Jan. 31, 1973, 49 SCRA 296.

[8] Ibid., 303. The cases cited in Arangco follow: United States vs. Dinglasan, 5 Phil. 695 (1906); Alvaran vs. Marquez, 11 Phil. 263 (1908); Perlas vs. Ehrman, 53 Phil. 607 (1929); Ramiro vs. Graño, 54 Phil. 744 (1930); Toribio vs. Decasa, 55 Phil. 461 (1930); Viuda de Echegoyen vs. Collantes, 58 Phil. 518 (1933); City of Manila vs. Roxas, 60 Phil. 215 (1934); San Agustin vs. Barrios, 68 Phil. 475 (1939); Amor vs. Florentino, 74 Phil. 403 (1943); De Leon vs. Padua, 75 Phil. 548 (1945); Roque vs. De los Santos, L-218 (1946); Vda. de Saludes vs. Pajarillo, 78 Phil. 754 (1947); Elks Club vs. Rovira, 80 Phil. 272 (1948); Coingco vs. Flores, 82 Phil. 284 (1948); People vs. Canlas, 82 Phil. 783 (1949); Suarez vs. Santos, 96 Phil. 302 (1954); Atkins, Kroll & Co., Inc. vs. Cua Hian Tek, 102 Phil. 948 (1958); Northern Motors, Inc. vs. Prince Line, 107 Phil. 253 (1960); Medel vs. Calasanz, 109 Phil. 348 (1960); Ng Cho Cio vs. Ng Diong, L-14832, Jan. 28, 1961, 1 SCRA 275; Republic vs. Aricheta, L-15589, May 31, 1961, 2 SCRA 469; Zambales Chromite Mining Co. vs. Robles, L-16182, Aug. 29, 1961, 2 SCRA 1051.

[9] Commonwealth Act No. 141 (1936).

[10] L-29421, Jan. 30, 1971, 37 SCRA 395.

[11] Ibid., 401. Cf. Eugenio vs. Perdido, 97 Phil. 41 (1955); Angeles vs. Court of Appeals, 102 Phil. 1006 (1958); Cadiz vs. Nicolas, 102 Phil. 1032 (1958); Santander vs. Villanueva, 103 Phil. 1 (1958); Felices vs. Iriola, 103 Phil. 125 (1958); Del Rosario vs. Abad, 104 Phil. 648 (1958); Republic vs. Garcia, 105 Phil. 826 (1959); Baje vs. Court of Appeals, L-18783, May 25, 1964, 11 SCRA 34; Republic vs. Ruiz, L-23712, April 29, 1968, 23 SCRA 348.

[12] Cf. Cabonitalla vs. Santiago, L-21062, Feb. 28, 1969, 27 SCRA 211; Lee Hong Hok vs. David, L-30389, Dec. 27, 1972, 48 SCRA 372.

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