

**MATIAS GONGON, PETITIONER, VS. COURT OF APPEALS, THE SPOUSES AMADA AQUINO, AND RUFINO RIVERA, THE OFFICE OF THE LAND TENURE ADMINISTRATION, AND THE OFFICE OF THE EXECUTIVE SECRE...***G.R. No. L-24421. April 30, 1970*

Ponente: MAKALINTAL, J.

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This is a petition for review of the decision of the Court of Appeals which affirmed the dismissal by the Court of First Instance of Manila of Matias Gongon's complaint to set aside the decision of the Land Tenure Administration - as affirmed by the Office of the President in awarding Lot 18-B, Block 23 of the Tambobong Estate, to herein private respondent Amada Aquino, wife of her co-respondent Rufino Rivera. The decision appealed from likewise ordered Gongon to turn over the possession of the litigated lot to Amada Aquino, to pay the rentals due at the rate of P6.00 a month from 1949 until such possession is restored to her and to pay attorney's fees in the amount of P1,000.00.

Lot 18-B, Block 23, with an area of 274 square meters, is a portion of the Tambobong Estate in Malabon, Rizal, which used to belong in its entirety to the Roman Catholic Church. The lot was originally leased to Amada Aquino, who in turn sublet it in 1934 to Matias Gongon for a term of 15 years at a nominal monthly rental of P6.00. The sub-lessee constructed his residential house on the property and since then has been living there, together with his family.

Meanwhile, the Tambobong Estate was purchased by the Government from the Roman Catholic Church on December 31, 1947 under the provisions of Section 1 of Commonwealth Act No. 539, which authorized the President of the Philippines "x x x to acquire private lands or any interest, through purchase or expropriation, and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their bona fide tenants or occupants or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines." In due time Matias Gongon filed an application with the defunct Rural Progress Administration for the purchase of Lot 18-B, Block 23, claiming preferential right as bona fide occupant. The application was opposed by Amada Aquino, who also filed her own application, alleging that as bona fide tenant or lessee she had the preferential right to purchase the lot. After investigation, the Director of Lands - the Bureau of Lands having then taken over the functions of the Rural Progress Administration - rendered a decision on May 31, 1955 approving Gongon's application, he being the actual occupant. On appeal to the Secretary of Agriculture and Natural Resources, this official set aside the order of the Director of Lands and gave due course to Amada Aquino's application.

Matias Gongon moved for reconsideration, but his motion was denied by the Land Tenure Administration, which had meanwhile taken over the functions, powers and duties of the Landed Estate Division of the Bureau of Lands upon the enactment of Republic Act No. 1400. Matias Gongon then appealed to the Office of the President, which

there-after affirmed the decision of the Land Tenure Administration. Accordingly, on February 24, 1961 the Land Tenure Administration executed a deed of sale of Lot 18-B in favor of Amada Aquino, as a result of which she obtained, on March 10, 1961, Transfer Certificate of Title No. 84738 in her name.

On April 24, 1961 Matias Gongon filed the instant case in the Court of First Instance of Manila to annul the decisions of the Land Tenure Administration and of the office of the President; to cause the award of the lot in question to him; to cancel its registration in the name of Amada Aquino and to have it registered in his name instead. The complaint likewise contained a prayer for attorney's fees and costs.

It is noteworthy that the Land Tenure Administration, in a manifestation it filed in the lower court on May 27, 1961, made common cause with herein appellant Matias Gongon, stating (in part) as follows:

"That at the time it issued the said Order, the LTA Board of Administrators was newly constituted and therefore it has not had sufficient time to study thoroughly the legality or wisdom of the Bureau of Lands policy giving preference right to tenants to purchase the lots leased by them over and above the actual occupants or sub-lessees thereof; hence, it just affirmed the said decision of the Department of Agriculture and Natural Resources as a matter of sound administrative policy;

That after a serious study of the issues of facts and of law in cases identical to the case at bar, the LTA Board of Administrators found out that it would be more in keeping with the spirit and intention of the laws (Commonwealth Acts Nos. 20 and 539 and Republic Act No. 1400) governing acquisition and disposition of the landed estates (including the Tambobong Estate) if it followed the doctrine laid down by the Supreme Court in the case of Marukot, et al., v. Jacinto, et al., (G. R. Nos. L-8036-38) promulgated on December 20, 1955, giving the actual occupants or sublessees the preference to purchase the lots occupied by them as against tenants or lessees who do not occupy the same; hence answering defendant subsequently reversed the policy followed by the Bureau of Lands and adopted the doctrines laid down in the Marukot case."

As heretofore stated, the lower court dismissed the complaint. In due time the plaintiff elevated the case to the Court of Appeals. In affirming the decision appealed from the appellate court pointed out (1) that the finding of the Secretary of Agriculture and Natural Resources, as affirmed by the Office of the President, to the effect that appellant Matias Gongon had waived whatever right he might have had over the lot in question was factual in nature and could not be reviewed by the courts; and (2) that appellant could not be considered as a bona fide occupant of the lot because his possession as sublessee was in effect possession by the lessee, citing Article 524 of the Civil Code.

His motion for reconsideration having been denied by the Court of Appeals, Matias Gongon filed the present petition for review, contending that the appellate court erred in failing to recognize his right as sublessee-tenant to the lot in question and in not cancelling the sale thereof to respondent Amada Aquino as well as its registration in her name; in holding that he had waived his right to the lot in question in favor of respondents-spouses Amada Aquino and Rufino Rivera; and in ordering him to pay rentals at the rate of P6.00 a month from 1949, plus attorney's fees and costs.

The two issues posed in this appeal are (1) whether or not petitioner has the preferential right to purchase the lot in question; and (2) if he has, whether or not the alleged waiver of whatever right he might have had over said lot is valid.

The first issue involves a conflict of claims between a lessee and a sublessee insofar as the right to purchase the property is concerned. Several decisions of this Court have been cited and discussed by the parties. Parenthetically, it may be noted that in those cases the concept of possession by a sublessee under the Civil Code, which according to the Court of Appeals in its decision under review was in effect possession by the

lessee-sublessor, was not considered by this Court applicable at all in construing the term "occupant" under Commonwealth Act No. 539.

In *Grande vs. Santos* (98 Phil. 62), the registered lessee sublet two portions of the lot to two different persons. In giving the right of preference to the registered lessee this Court took into consideration a number of circumstances: that the lot was a small one of only 144 square meters; that the lessee was himself an actual occupant of part thereof; and that to subdivide said lot into three portions would, owing to the extremely limited size of each, lead to frictions, conflicts, misunderstandings and perhaps disturbances of the peace - consequences which Commonwealth Act No. 539 precisely sought to avert.

On the other hand, in *Marukot et al. vs. Jacinto, and Director of Lands* (supra, 98 Phil. 128) this Court awarded to the sublessees the portions of the lot they were occupying, as against the claim of the lessee. This case differed from the *Grande* case not only in that the lot involved had a bigger area - some 500 square meters but principally in the fact that the lessee was not actually occupying the lot but had his residence on another property altogether. This Court did not rule on whether a "tenant", that is, a lessee, should enjoy priority over an "occupant" who is a sublessee, because after awarding the portions covered by the sublease to the actual occupants, the registered lessee still got about 300 square meters, or 100 square meters more than the total area awarded to the sublessees.

In *Santiago et al., vs. Cruz et al.*, (98 Phil. 168), the right of preference was given to the registered tenant. In interpreting Section 1 of Commonwealth Act No. 539, this Court said that "the intendment of the law is to award the lots to those who may apply in the order mentioned", that is, "the first choice is given to the bona fide 'tenants', the second to the 'occupants' and the last to 'private individuals.'" The Court also took into consideration the fact that the sublessees executed a document expressly agreeing to vacate the lots anytime the tenant so required, together with the affidavit of one of the sublessees acknowledging the right of the tenant to purchase the lot and renouncing whatever rights he might have to purchase it.

However, in the subsequent case of *Gutierrez vs. Santos, et al.* (107 Phil. 419), the ruling in the *Santiago* decision was clarified and given a restrictive application, as follows:

"Now, we say that the above order of preference should be observed if the parties affected stand on an equal footing or under equal circumstances, for only in that way can the provision of the law be implemented with equity, justice and fairness to all and in keeping with the spirit of giving land to the landless so that he may have a land of his own. But the order need not be rigidly followed when a party, say a bona fide tenant, has already in his name other lots more than what he needs for his family, for certainly to give him the preference would work injustice to the occupants."

In the case at bar it is not disputed that respondent spouses have their house on another lot (lot No. 34, block No. 7) in the Tambobong Estate. Furthermore, respondent Rufino Rivera is the registered bona fide tenant of still another lot, also in Tambobong, with an area of 2,761 square meters, which is considerably bigger than the lot in question, where petitioner and his family constructed their residence and where they have been living since 1934. It cannot be said, therefore, that the parties herein stand on an equal footing or under equal circumstances. Justice and equity command that petitioner be given the preferential right to purchase in order to carry out the avowed policy of the law to give land to the landless.

On the second issue petitioner's position is that his preferential right could not be validly waived, such waiver being against public policy. Under Article 6 of the new Civil Code "rights may be waived, unless the waiver is contrary to law, public order, public policy, morals, or good customs, or prejudicial to a third person with a right recognized by law." The old Civil Code (Art. 4) carried a similar provision, although it mentioned only public interest or public order.

That Commonwealth Act No. 539 lays down a public policy there can be no doubt. In the case of *Juat vs. Land Tenure Administration*, G. R. No. L-17080, January 28, 1961, this Court, thru Mr. Justice Felix Angelo Bau-tista, ruled in this wise:

"x x x It may also be stated that the avowed policy behind the adoption of such measure, is, as aptly observed by the Court of Appeals, 'to provide the landless elements of our population with lots upon which to build their homes and small farms which they can cultivate and from which they can derive their live-lihood without being beholden to any man' (*Pascual vs. Lucas*, 51 O. G., No. 4, p. 2429), such measure having been adopted in line with the policy of social justice enshrined in our Constitution to remedy and cure the social unrest caused by the concentration of landed estates in the hands of a few by giving to the landless elements a piece of land they can call their own."

Being contrary to public policy, the alleged waiver of his right made by herein petitioner should be considered null and void.

WHEREFORE, the decision appealed from is reversed. The award of the lot in question to respondent Amada Aquino is set aside; transfer certificate of title No. 84738 of the Registry of Deeds of Rizal is ordered cancelled; and petitioner is declared to have the preferential right to purchase the said lot. Costs against respondents.

Concepcion, C.J., Reyes, JBL, Dizon, Zaldivar, and Teehankee, JJ., concur.  
Ruiz Castro, Fernando, Barredo, and Villamor, JJ., took no part.

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