

**PAULINA CORPUZ, ET AL., PLAINTIFFS AND APPELLANTS, VS.
LEOPOLDO L. BELTRAN, ET AL., DEFENDANTS AND APPELLEES.***G.R. No. L-7487. October 27, 1955*

Ponente: BAUTISTA ANGELO, J.

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This is an action for annulment of two deeds of sale, one with pacto de retro and another absolute, of a parcel of land situated in San Jose, Nueva Ecija, executed by Esteban Corpuz in favor of spouses Leocadio L. Beltran and Maria del Rosario. The action was instituted in the Court of First Instance of Nueva Ecija by the plaintiffs who are the legitimate heirs of Esteban Corpuz. The case having been submitted on a stipulation of facts, the court dismissed the complaint on the ground that the action of the plaintiffs has already prescribed. On the plea that the only issue involved is one of law, plaintiffs brought the case on appeal directly before this Court.

On June 22, 1932, Esteban Corpuz was granted homestead patent No. 19222 by the Governor General over a tract of agricultural land in San Jose, Nueva Ecija, containing an area of 13 hectares, 85 ares and 34 centares, and on July 14, 1932, Original Certificate of Title No. 3842 was issued in his favor by the Register of Deeds of Nueva Ecija.

On March 28, 1933, Esteban Corpuz sold the land with option to repurchase to spouses Leocadio L. Beltran and Maria del Rosario, and on July 11, 1935, Esteban Corpuz made a direct sale of the same property in favor of the spouses. As a result of the sale, Transfer Certificate of Title No. 9388 was issued in favor of said spouses by the Register of Deeds. It also appears that, when the direct sale was executed, the land was placed in the possession of the vendees.

The main ground on which the lower court predicated the dismissal of this case is the fact that the action of the plaintiffs has already prescribed it appearing that more than 17 years had elapsed from the sale of the land to the institution of the present action. Appellants now dispute this finding contending that in an action for the annulment of a sale of land which is void from its inception, the defense of prescription is unavailable.

There is merit in this contention. It should be noted that the purpose of the present action is to seek the nullification of two deeds of sale of a parcel of land covered by a homestead patent which were executed within 5 years from the issuance thereof, and following the theory of appellants, the same are void ab initio, or are non-existent in contemplation of law (section 116 of Act No. 2874). If such is the theory on which the action of appellants is predicated, then the defense of prescription cannot be availed of, for, under Article 1410 of the new Civil Code, "the action or defense for the declaration of the inexistence of a contract does not prescribe." The reason for this rule is obvious. The defect of a void or inexistent contract is permanent. The right to set up the defense of illegality cannot be waived (Article 1409, Id.).

Apparently, the above legal provision is new in the sense that it was included for the first time in our statute. The fact however is that this principle was already invoked by this Court in a case where it held that the mere lapse of time cannot give efficacy to contracts that are void ab initio. Thus, speaking of contracts executed by persons who

are unauthorized, this Court said: "The nullity of these contracts is of a permanent nature and it will exist as long as they are not duly ratified. The mere lapse of time cannot give efficacy to such contracts. The defect is such that it cannot be cured except by the subsequent ratification of the person in whose name the contract was executed." (Tipton vs. Velasco, 6 Phil., 67). The lower court, therefore, erred in dismissing this case on this ground.

The next question to be determined refers to the validity of the two deeds of sale which were executed by appellants' predecessor-in-interest within 5 years from the issuance of homestead patent. Appellants contend that these sales are null and void ab initio because they were entered into in violation of section 116 of Act No. 2874. Appellees, on the other hand, contend that, since the homestead patent has been issued under Act No. 926, the validity of these sales can only be determined in the light of the latter Act which does not contain any restriction as regards the disposition of the land subject of the patent.

The issue raised is not new. A similar question has already arisen which has been the subject of judicial determination. We refer to the case of Balboa vs. Farralea, 51 Phil., 505. The facts of that case briefly are: In 1913, Buenaventura Balboa applied for a homestead patent covering a tract of land. In 1918, he submitted proof of his compliance with all the requirements of Act No. 026. On July 1, 1919, Act No. 926 was repealed by Act No. 2874. On September 10, 1920, a homestead patent for the land was issued to Balboa by the Governor General, and on August 11, 1924, Balboa sold the land to Cecilio L. Farrales. The question raised was, which of the two Acts shall be applied in determining the validity of the sale? In holding that the sale was valid, this Court said:

"Section 116 of Act No. 2874, which prohibits the sale of homestead land during the period of five years subsequent to the issuance of the patent or certificate of title upon which rests the decision of the court a quo, cannot be invoked to annul the sale in question. Said prohibition, if applied in the present case, would impair and diminish the vested rights acquired under Act No. 926, contrary to the uniform doctrine followed in the United States, and in violation of the express provisions of section 3 of the Jones Law.

"The right, title and interest of the appellant having become vested under the provisions of Act No. 926, his rights cannot be affected by any law passed subsequent thereto. The provisions of Act No. 2874 cannot be invoked for the purpose of defeating the vested right acquired by the appellant before its adoption."

The Balboa case is decisive of the present, the facts involved in the two cases being similar. We therefore hold that the validity of the sales under consideration should be determined in the light of Act No. 926 and, as the latter does not contain any prohibition regarding the disposition of a land covered by a homestead patent, said sales are valid and binding and, therefore, the present action must fail for lack of merit.

Wherefore, the decision appealed from is hereby modified in the sense that the action should be dismissed for lack of merit and not on the ground of prescription. No pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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