

JUAN SALA, PETITIONER, VS. COURT OF FIRST INSTANCE OF NEGROS ORIENTAL (BRANCH V), HON. ALEJANDRO BONCAROS, PRESIDING JUDGE, AND CRISPIN SALVERON, RESPONDENTS.

G.R. No. L-47281. April 27, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

The issue in this petition is whether or not a judgment creditor who bought at a public auction, a land covered by a free patent, can recover possession thereof from another buyer to whom the same was conveyed by the grantee and judgment debtor, in violation of Section 118 of CA 141, as amended.

On April 15, 1967, Daniel Junco was granted by the President of the Philippines homestead patent no. 255492 over a parcel of land known as lot numbers 4 and 5, Psu-117884 of the cadastral survey of Basay, Negros Oriental, with a total area of 72,941 square meters.

Without knowing said issuance, he conveyed by way of a deed of sale dated June 16, 1967, 7,500 square meters of the lots to herein private respondent. Sometime in 1968, he received information of the issuance. He registered the patent only on December 19, 1968, and he was issued by the Register of Deeds of the province, OCT No. 7936 covering the same lots.

Private respondent, on the other hand, registered the deed of sale but he was never issued any title thereto. His grandfather, however, paid the real estate taxes of the portion sold to him up to 1974. On February 24, 1974, the entire lots were sold at a public auction held by the provincial sheriff. The latter on that same day, executed in favor of petitioner Juan Sala as judgment creditor and being the highest bidder thereat, a certificate of sale and subsequently, OCT No. 7936 was cancelled and TCT No. 1300 was issued to petitioner. Since he bought the lots, petitioner had been in possession thereof except the portion sold to private respondent. Petitioner made demands from private respondent for the surrender of the portion sold to him but he refused. Petitioner then filed with the then Court of First Instance of Negros Oriental an action for recovery of possession docketed as Civil Case No. 5966 against private respondent.

Petitioner's evidence consisted mainly of TCT No. FV-1300 issued to him by the Registry of Deeds and the testimony of his daughter Lourdes Sala Napigkit who declared that they have advised private respondent to vacate the area sold to him but he refused and that they have never harvested the fruits from the 130 coconut trees thereon. For private respondent, his evidence was the deed of sale executed in his favor by Daniel Junco. After trial on the merits, the trial court rendered a decision dismissing petitioner's complaint.[1] In so ruling, the trial court relied on the decision of this Court in *Dagupan Trading v. Macam*, L-18497, May 31, 1965, 4 SCRA 179. In that case, the Court held and this the trial court reiterated:

"x x x where one of two conflicting sales of a piece of land executed before the land was registered, while the other one was an execution sale in favor of the judgment creditor of the owner made after the same property had been registered, what should determine the issue are the provisions of the last paragraph of Sec. 35, Rule

39 of the Rules of Court to the effect that, upon the execution and delivery of the final certificate of sale in favor of the purchaser of land sold in an execution sale, such purchaser 'shall be substituted to and acquire all the rights, title, interest and claim of the judgment debtor to the property as of the time of the levy,' 'wherefore (sic) a considerable time prior to the levy on execution interest of the owner of the land levied upon had already been conveyed to another who took possession thereof and introduced improvements thereon the aforesaid levy is void. The prior sale, albeit unregistered cannot be deemed automatically (sic) cancelled upon the subsequent issuance of the Torrens Title over the land. 'x x x.'" (p. 37, Rollo)

In addition, it considered private respondent a buyer in good faith. In this regard, it said that the auction sale where petitioner was buyer was on February 21, 1974 while the sale to the private respondent by Daniel Junco was on June 26, 1967. It reasoned out that the patent was issued on April 15, 1967 and the prohibition to alienate or encumber under Section 118 of Commonwealth Act No. 141 is within 5 years from the date of issuance of the patent but the above section of Commonwealth Act No. 141 makes no "reference to a buyer in good faith like the defendant who has no knowledge as to when his seller was granted a patent upon whom devolves the strict observance of" said section, hence, concluded that "the sale by Daniel Junco to defendant Crispin Salveron is VALID."

Petitioner raised the following errors:

I

RESPONDENT COURT OF FIRST INSTANCE ERRED IN DECLARING THE SALE OF THE LAND IN QUESTION BY DANIEL T. JUNCO TO PRIVATE RESPONDENT VALID ALTHOUGH SAID SALE IS CLEARLY IN VIOLATION OF SECTION 118 OF THE PUBLIC LAND ACT; and

II

RESPONDENT COURT OF FIRST INSTANCE ERRED IN FINDING THAT WHAT PETITIONER HAS BOUGHT IN THE SHERIFF'S AUCTION SALE WAS THE REMAINING INTEREST OF DANIEL T. JUNCO ON THE LAND EXCLUDING THE 7,500 SQUARE METERS EARLIER SOLD TO PRIVATE RESPONDENT UNDER THE QUESTIONED DEED OF SALE.

(p. 21, Rollo)

Petitioner alleged that the sale made by Daniel Junco to private respondent is void by reason of Sec. 118 of Commonwealth Act No. 141, as amended and so private respondent never acquired any right over the land subject thereof; that respondent court's theory of equity and private respondent being a buyer in good faith is erroneous because Section 118 does not exempt patentees and their purported transferees who had no knowledge of the issuance of the patent from the prohibition against alienation. Petitioner further asserts that our ruling in *Dagupan Trading Co., v. Macam*, supra, is not applicable because in that case, there were two valid sales – one, executed before the land was registered; and the other, an execution sale after the land was registered. Moreover, the land involved therein presumably was not covered by a patent.

Private respondent, on the other hand, maintains that respondent court correctly applied our pronouncement in the above cited case.

Section 118 of Commonwealth Act No. 141, as amended by Commonwealth Act No. 456, provides as follows:

"Except in favor of the Government or any of its branches, units or institutions, lands acquired under 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

improvement or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations." (p. 22, Rollo)

As was held in several cases, the prohibition has the avowed purpose of giving the homesteader or patentee every chance to preserve for himself and his family the land that the State had gratuitously given him as a reward for his labor in cleaning and cultivating it.[2]

Prohibition to alienate commences to run from the date the application is approved which may be a date earlier than the date of issuance of the patent. The period of five years within which the alienation or encumbrance of a homestead is restricted, starts to be computed from the latter date.[3]

In the case at bar, it is not disputed that the sale made by the grantee, Daniel Junco to private respondent, of the 7,500 square meters portion of lots 4 and 5, was made barely one month and eleven days from the issuance of the patent to him. The sale was, therefore, null and void and without effect because it was in violation of the above provision of law. The nullity of the sale of only a portion of the lots, extended to the entire lots.[4] The sale produced the effect of annulment and cancellation of the title issued to Daniel Junco and causes the reversion of the lots and its improvements to the State (Sec. 124, CA 141, as amended). Although the sheriff's sale was conducted after five years from the issuance of the patent and that petitioner, although in good faith, was subsequently issued title over lots 4 and 5, the proceedings had did not cure the nullity of the first sale. The provision against alienation is mandatory. Thus, where a grantee is found not entitled to hold and possess in fee simple the land, by reason of his having violated Section 118 of the Public Land Law, the Court may properly order its reconveyance to the grantor, although the property has already been brought under the operation of the Torrens System. And, this right of the government to bring an appropriate action for reconveyance (or reversion) is not barred by the lapse of time; the Statute of Limitations does not run against the State.[5]

The principle of conclusiveness of title, though sound, as applied to lands registered under the Land Registration Act through judicial proceedings, cannot defeat the express policy of the State prohibiting the alienation or encumbrance of lands of the public domain acquired under the provision of the Public Land Act within five years from and after the date of the patent.[6]

The reliance placed by respondent court on the case of Dagupan Trading Co., v. Macam, supra, is erroneous. The land involved therein is not covered by a free patent.

ACCORDINGLY, the judgment appealed from is AFFIRMED insofar as it dismissed the complaint for recovery of possession. Let a copy of the decision be furnished the Office of the Solicitor General for appropriate action.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

[1] p. 18, Rollo.

[2] Simeon v. Pena, G.R. No. L-29049, December 29, 1970, 36 SCRA 610; Pascua v. Talens et al., 80 Phil. 792; Isaac v. Tan Chuan Leong, et al., 69 Phil. 24; Lasud v. Lasud, G.R. No. 19242, February 29, 1964, 10 SCRA 425; Sagucio v. Bulos, G.R. Nos. L-17608-09, July 31, 1962, 5 SCRA 798.

[3] Amper v. Presiding Judge, Br. III, CFI, Misamis Oriental, No. L-35595, May 17, 1983, 122 SCRA 327; Registry of Deeds of Nueva Ecija v. Director of Lands, 72 Phil 313; Motos v. Soler, et al., 109 Phil. 481.

[4] Republic of the Phil. v. Garcia, 105 Phil. 826; Francisco v. Rodriguez, No L-31083, September 30, 1975, 67

SCRA 212.

[5] Republic v. Ruiz, No. L-23712, April 29, 1968, 23 SCRA 348.

[6] Companero, et al. v. Caloma, 106 Phil. 993.

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