

PEDRO DE LA CONCHA, MARIO DE LA CONCHA, JOSE C. LOPEZ, J. LEON GONZALES, CONSUELO S. GONZALES-PRECILLA, JUANA F. GONZALES-DE LEON, MARIA C. GONZALES-HILARIO, FRANCISCO F. GONZAL...

G. R. No. L-19122. October 19, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The property in litigation is Lot No. 2716 of the San Miguel (Bulacan) cadastre, covered by free patent No. V-2309 and certificate of title No. P-89 of the Bulacan land registry, issued to defendant Irineo Magtira on October 20, 1952, in accordance with Commonwealth Act No. 141 and Section 122 of Act No. 496. Plaintiffs commenced this action on January 12, 1960, praying (1) that the free patent be declared null and void; (2) that the certificate of title be cancelled; and (3) that defendant be ordered to reconvey the land to plaintiffs and to pay them damages and attorney's fees.

After defendant's answer was filed the parties entered into the following stipulation of facts and submitted the case for decision on the basis thereof:

"1. Defendant admits that plaintiffs Pedro de la Concha, Mario de la Concha and Jose C. Lopez are the sole heirs of Francisco de la Concha, now deceased, and J. Leon Gonzalez, Consuelo S. Gonzalez-Precilla, Juana F. Gonzalez de Leon, Maria C. Gonzalez-Hilario, Francisco F. Gonzalez and Concepcion A. Gonzalez-Virata are the only heirs of Francisco J. Gonzalez, also deceased;

2. That parties hereby agree that the land in controversy designated as Lot No. 2716, San Miguel Cadastre, is situated in Sibul, San Miguel, Bulacan and is more particularly described in Original Certificate of Title No. P-89 of the Registry of Deeds of Bulacan in the name of defendant. A certified true copy of said title consisting of three (3) pages is hereto attached as Exhibit 'A' and made an integral part of this stipulation;

3. That parties also agree that the land in question was declared by this Honorable Court as the private property of plaintiffs' predecessors, Francisco de la Concha and Francisco J. Gonzales, in its decision dated September 13, 1929, In Exp. Cat. No. 13, G.L.R.O. Record No. 707, entitled 'El Director de Terrenos vs. Francisco de la Concha,' which has already become final and executory. A certified true copy of said decision consisting of three (3) pages including the certificate of the Clerk of Court is hereto attached as Exh. 'B' and made an integral part hereof;

4. Plaintiffs admit that defendant's title, Exh. 'A' was issued by virtue of his application for Free Patent hereto attached as Exh. 'C', the Order of Approval and Issuance of Patent hereto attached as Exh. 'D' and Free Patent No. V-2309 hereto attached as Exh. 'E', all of which are incorporated herein and made integral parts of this stipulation;

5. The parties agree that the land in question has been the subject of an administrative investigation in the Bureau of Lands in B.L. Claim No. 47 (n), entitled 'Francisco de la Concha, et al. vs. Irineo Magtira', which

was decided by the Director of Lands on November 25, 1959, but was appealed to the Department of Agriculture and Natural Resources by the respondent (defendant herein). However, action on said appeal was suspended on account of the pendency of the Instant case. A certified true copy of the aforesaid decision consisting of two (2) pages is hereto attached as Exh. 'F' and made an integral part hereof;

6. Defendant admits that all real estate taxes for the land in controversy has been paid by plaintiffs until the year 1950 as shown by the Certification of the Municipal Treasurer of San Miguel Bulacan, which is hereto attached as Exh. 'G' and made an integral part here of. Plaintiffs, on the other hand, admit that after defendant's title was issued in 1952 all real estate taxes for said property were paid by the defendant.

7. For purposes of this stipulation and to further abbreviate the proceedings, the parties hereby fix the annual yield of the land in question at P500.00."

On July 21, 1961 the trial court rendered judgment as follows:

In view of all the foregoing, judgment is hereby rendered as follows:

(1) that the land in controversy be, as it is, hereby declared as the private property of the plaintiffs with the right of its immediate possession;

(2) that the Free Patent No. V-2309 and the corresponding Original certificate of Title No. P-89 be, as they are, hereby declared null and void and, therefore, should be cancelled;

(3) that defendant shall pay to the plaintiffs, as damages, the sum of P250.00 annually from the year 1953 until the possession of the property in question has been duly surrendered to the plaintiffs, with interest at the rate of 6% per annum from the date of this decision, and be cause of the payment of land taxes by defendant from 1952, whatever amounts paid by him from the year up to the present should be correspondingly deducted from the total amount of the damages awarded in favor of plaintiffs; and

(4) defendant shall further pay the plaintiffs the sum of P400.00 as attorney's fees and the costs of the suit."

Defendant interposed the present appeal on a lone assignment of error that the judgment of the trial court is contrary to the doctrine of indefeasibility of title. He invokes several Supreme Court decisions which hold that once a homestead patent granted according to the Public Land Act is registered pursuant to Section 122 of Act 496, the title becomes as irrevocable as a Torrens title itself, and therefore is not subject to review except within one year from the entry of the decree, and then only on the ground of fraud, as provided in Section 38.

It should be noted, however, that in every one of the cases relied upon by appellant the dispute involved "disposable" land, that is, land that formed part of the public domain at the time the free patent therefor was issued. . And the conflict was between the right of the patentee under the certificate of title issued pursuant to the free patent and a right acquired under a subsequent proceeding, as, for example, an attempted partition of the lot in a cadastral proceeding, under Act No. 2259 [1] or the issuance of a certificate of title in the name of the homesteader or his successors in a subsequent cadastral proceeding, the property, in the meantime, having been mortgaged [2] or sold [3] by the homesteader or his successors, or the claim of an adverse claimant who charged that the homestead patent was obtained through fraud and who sought to annul the decree after more than one year from entry and issuance thereof.[4] Or the controversy was between the right under the homestead patent and an inferior right of another over the land, such as a lessee's right under a public lease contract registered prior to the certificate of title of the homesteader[5] or the right of a mere homestead applicant.[6]

Private ownership of land (as when there is a prima facie proof of ownership like a duly registered possessory information) is not affected by the issuance of a free patent over the same land, because the Public Land Law applies only to lands of the public domain. The Director of Lands has no authority to grant to another a free patent

for land that has ceased to be a public land and has passed to private ownership.[[7]] Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain.[8]

In the case of Director of Lands v. Court of Appeals and Braulio Cosme, G.R. No. L-17696, May 19, 1966, the Supreme Court unequivocally ruled that a certificate of title issued pursuant to a decree of registration is on a "higher level" than a certificate of title based on a patent issued by the Director of Lands.

In the instant case the parties agree that as early as September 13, 1929 a decision was rendered against the Director of Lands [9] declaring the land as the private property of appellees' predecessors. Hence when the homestead patent was issued In favor of appellant the land was no longer "disposable" land. The Director had no authority to issue it and the certificate of title based thereon is a nullity.

Contrary to appellant's claim, appellees have not been guilty of laches. They were in possession of the property from the time they inherited it until appellant dispossessed them in 1952. They were paying the real estate taxes up to the year 1950. Upon discovering that appellant had secured a free patent and title over the property they immediately filed a protest in the Bureau of Lands, asking for its cancellation. On November 25, 1959 the Director decided the case in favor of appellees. Appellant appealed to the Department of Agriculture and Natural Resources. While said appeal was pending appellees filed the present suit in court. Far from indicating these laches, these circumstances show vigilance on the part of appellees in protecting their rights over the property.

WHEREFORE, the decision appealed from is affirmed, with costs against appellant.

Concepcion, C.J., Reyes, J. B. L., Dizon, Regala, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ.,concur.
Barrera, J., on leave.

[1] Manalo v. Lucban, 48 Phil. 973

[2] El Hogar Filipino v. Olviga, 60 Phil. 17. Here the mortgage had been foreclosed and the land sold at public auction before the cadastral proceeding.

[3] Remoso v. Obligado, 70 Phil. 86.

[4] Sumail v. Court of First Instance of Cotabato, 96 Phil. 946; Samonte v. Sambilon, G.R. No. L-12964, Feb. 29, 1960.

[5] Dagdag v. Nepomuceno, G.R. No. L-12691, February 27, 1959.

[6] Republic v. Heirs of Carle, G.R. No. L-12485, July 31, 1959.

[7] Garcia v. Director of Lands, 80 Phil. 474, citing Lacaste v. Director of Lands, 63 Phil. 654, and Lizada v. Omanan, 59 Phil. 547. In Vital v. Anore, 90 Phil. 855, the Court declared that the rule laid down in Ramoso v. Obligado, supra, that a home stead patent, once registered under the Registration Act, becomes as indefeasible as a Torrens title, is only true and correct if the parcel of agricultural land patented or granted as homestead by the Government, after the requirements of law have been complied with, was a part of the public domain, but if it was private land, the patent granted and the Torrens title issued upon the patent or homestead grant are a nullity.

[8] Lucas v. Durian, G.R. No. L-7856, September 23, 1957, citing El Hogar Filipino, supra, and Ramoso v. Obligado, supra. Appellant also relies on the case of Republic v. Heirs of Carle, supra. But, as stated in the case of Director of Lands v. Court of Appeals and Braulio Cosme, supra, "the case of Director of Lands v. Heirs of

Ciriaco Carle, *supra*, was based upon that of Lucas v. Durian, *supra*, and hence, its force as precedent is similarly limited to lands of the public domain which are 'disposable' by the Director of Lands."

[9] In accordance with the ruling in Nieto v. Quines, G.R. No. L-14643, September 29, 1962, the Director of Lands is the predecessor-in-interest of appellant.

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