

**LAUSAN AYOOG, BENITO AYOOG, DAMASO AYOOG, JULIO AYOOG,
SEGUNDA AYOOG, VICENTE ABAQUETA, BERNARDINO ADORMEO,
VIDAL ALBANO, FELICIANO ARIAS, ANTONIO BALDOS, MAXIMO
BALDOS, ROMERO BINGZ...**

G.R. No. L-46729. November 19, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the application of section 11, Article XIV of the 1973 Constitution (disqualifying a private corporation from purchasing public lands) to a 1953 sales award made by the Bureau of Lands, for which a sales patent and Torrens title were issued in 1975, and to the 1964 decision of the trial court, ejecting some of the petitioners from the land purchased, which decision was affirmed in 1975 by the Court of Appeals. That legal question arises under the following facts:

On January 21, 1953, the Director of Lands, after a bidding, awarded to Biñan Development Co., Inc. on the basis of its 1951 Sales Application No. V-6834 Cadastral Lot No. 281 located at Barrio Tamugan, Guianga (Baguio District), Davao City with an area of about two hundred fifty hectares. Some occupants of the lot pro-tested against the sale. The Director of Lands in his decision of August 30, 1957 dismissed the protests and ordered the occupants to vacate the lot and remove their improvements. No appeal was made from that decision.

The Director found that the protestants (defendants in the 1961 ejectment suit, some of whom are now petitioners herein) entered the land only after it was awarded to the corporation and, therefore, they could not be re-garded as bona fide occupants thereof. The Director characterized them as squatters. He found that some claimants were fictitious persons (p. 30, Rollo of L-43505, *Okay vs. CA*). He issued a writ of execution but the protestants defied the writ and refused to vacate the land (p. 28, Rollo of L-43505, *Okay vs. CA*).[*]

Because the alleged occupants refused to vacate the land, the corporation filed against them on February 27, 1961 in the Court of First Instance of Davao, Civil Case No. 3711, an ejectment suit (action publiciana). The forty defendants were identified as follows:

1. Vicente Abaqueta
21. Eniego Garlic
2. Candido Abella
22. Nicolas Garlic
3. Julio Ayog
23. Rufo Garlic
4. Arcadio Ayong

24. Alfonso Ibales
5. Generoso Bangonan
25. Julian Locacia
6. Lomayong Cabao
26. Filomeno Labantaban
7. Jose Catibring
27. Arcadio Lumantas
8. Teodolfo Chua
28. Santos Militante
9. Guillermo Dagoy
29. Toribio Naquila
10. Anastacia Vda. de Didal
30. Elpidio Okay
11. Alfredo Divinagracia
31. Guillermo Omac
12. Silverio Divinagracia
32. Emilio Padayday
13. Galina Edsa
33. Marcosa Vda. de Rejoy
14. Jesus Emperado
34. Lorenzo Rutsa
15. Porfirio Enoc
35. Ramon Samsa
16. Benito Ente
36. Rebecca Samsa
17. German Flores
37. Alfeo Sante
18. Ciriaco Fuentes
38. Meliton Sante
19. Pulong Gabao
39. Amil Sidaani

20. Constancio Garlic

40. Cosme Villegas

That ejectment suit delayed the issuance of the patent. The trial court found that the protests of twenty of the above-named defendants were among those that were dismissed by the Director of Lands in his 1957 decision already mentioned.

On July 18, 1961 the purchase price of ten thousand pesos was fully paid by Biñan Development Co., Inc. On November 10, 1961, an official of the Bureau of Lands submitted a final investigation report wherein it was stated that the corporation had complied with the cultivation and other requirements under the Public Land Law and had paid the purchase price of the land (p. 248, Rollo).

It was only more than thirteen years later or on August 14, 1975 when Sales Patent No. 5681 was issued to the corporation for that lot with a reduced area of 175.3 hectares. The patent was registered. Original Certificate of Title No. P-5176 was issued to the patentee.

The Director of Lands in his memorandum dated June 29, 1974 for the Secretary of Natural Resources, recommending approval of the sales patent, pointed out that the purchaser-corporation had complied with the said requirements long before the effectivity of the Constitution, that the land in question was free from claims and conflicts and that the issuance of the patent was in conformity with the guidelines prescribed in Opinion No. 64, series of 1973, of Secretary of Justice Vicente Abad Santos and was an exception to the prohibition in section 11, Article XIV of the Constitution (p. 258, Rollo).

Secretary of Natural Resources Jose J. Leido, Jr., in approving the patent on August 14, 1975, noted that the applicant had acquired a vested right to its issuance (p. 259, Rollo).

Before that patent was issued, there was a trial in the ejectment suit. Fifteen defendants (out of forty), namely, Julio Ayog, Guillermo Bagoy, Generoso Bangonan, Jose Catibring, Porfirio Enoc, Jose Emperado, Arcadio Lomanto, Toribio Naquila, Elpidio Okay, Alfeo Sante, Meliton Sante, Ramon Samsa, Rebecca Samsa, Arcadio Saru-mines and Felix Tahantahan, testified that they entered the disputed land long before 1951 and that they planted it to coconuts, coffee, jackfruit and other fruit trees (p. 28, Record on Appeal).

The trial court did not give credence to their testimonies. It believed the report of an official of the Bureau of Lands that in 1953 the land was free from private claims and conflicts and it gave much weight to the decision of the Director of Lands dismissing the protests of the defendants against the sales award (p. 30, Record on Appeal).

Furthermore, the trial court during its ocular inspection of the land on November 8, 1964 found that the plantings on the land could not be more than ten years old, meaning that they were not existing in 1953 when the sales award was made. Hence, the trial court ordered the defendants to vacate the land and to restore the possession thereof to the company. The Court of Appeals affirmed that judgment on December 5, 1975 in its decision in Biñan Development Co., Inc. vs. Sante, CA-G.R. No. 37142-R. The review of the decision was denied by this Court on May 17, 1976 in Elpidio Okay vs. Court of Appeals, L-43505.

After the record was remanded to the trial court, the corporation filed a motion for execution. The defendants, some of whom are now petitioners herein, opposed the motion. They contended that the adoption of the Constitution, which took effect on January 17, 1973, was a supervening fact which rendered it legally impossible to execute the lower court's judgment. They invoked the constitutional prohibition, already mentioned, that "no private corporation or association may hold alienable lands of the public domain except by lease not to exceed one

thousand hectares in area".

The lower court suspended action on the motion for execution because of the manifestation of the de-fendants that they would file a petition for prohibition in this Court. On August 24, 1977, the instant prohibition action was filed. Some of the petitioners were not defendants in the ejectment case.

We hold that the said constitutional prohibition has no retroactive application to the sales application of Biñan Development Co., Inc. because it had already acquired a vested right to the land applied for at the time the 1973 Constitution took effect.

That vested right has to be respected. It could not be abrogated by the new Constitution. Section 2, Article XIII of the 1935 Constitution allows private corporations to purchase public agricultural lands not exceeding one thousand and twenty-four hectares. Petitioners' prohibition action is barred by the doctrine of vested rights in constitutional law.

"A right is vested when the right to enjoyment has become the property of some particular person or persons as a present interest" (16 C.J.S. 1173). It is "the privilege to enjoy property legally vested, to enforce contracts, and enjoy the rights of property conferred by the existing law" (12 C.J.S. 955, Note 46, No. 6) or "some right or interest in property which has become fixed and established and is no longer open to doubt or controversy" (Downs vs. Blount, 170 Fed. 15, 20, cited in Balboa vs. Farrales, 51 Phil. 498, 502).

The due process clause prohibits the annihilation of vested rights. "A state may not impair vested rights by legislative enactment, by the enactment or by the subsequent repeal of a municipal ordinance, or by a change in the constitution of the State, except in a legitimate exercise of the police power" (16 C.J.S. 1177-78).

It has been observed that, generally, the term "vested right" expresses the concept of present fixed interest, which in right reason and natural justice should be protected against arbitrary State action, or an innately just and imperative right which an enlightened free society, sensitive to inherent and irrefragable individual rights, cannot deny (16 C.J.S. 1174, Note 71, No. 5, citing Pennsylvania Greyhound Lines, Inc. vs. Rosenthal, 192 Atl. 2nd 587).

Secretary of Justice Abad Santos in his 1973 opinion ruled that where the applicant, before the Constitution took effect, had fully complied with all his obligations under the Public Land Act in order to entitle him to a sales patent, there would seem to be no legal or equitable justification for refusing to issue or release the sales patent (p. 254, Rollo).

In Opinion No. 140, series of 1974, he held that as soon as the applicant had fulfilled the construction or cultivation requirements and has fully paid the purchase price, he should be deemed to have acquired by purchase the particular tract of land and to him the area limitation in the new Constitution would not apply.

In Opinion No. 185, series of 1976, Secretary Abad Santos held that where the cultivation requirements were fulfilled before the new Constitution took effect but the full payment of the price was completed after January 17, 1973, the applicant was, nevertheless, entitled to a sales patent (p. 256, Rollo).

Such a contemporaneous construction of the constitutional prohibition by a high executive official carries great weight and should be accorded much respect. It is a correct interpretation of section 11 of Article XIV.

In the instant case, it is incontestable that prior to the effectivity of the 1973 Constitution the right of the corporation to purchase the land in question had become fixed and established and was no longer open to doubt or controversy.

Its compliance with the requirements of the Public Land Law for the issuance of a patent had the effect of

segregating the said land from the public domain. The corporation's right to obtain a patent for that land is protected by law. It cannot be deprived of that right without due process (*Director of Lands vs. CA*, 123 Phil. 919).

As we cannot review the factual findings of the trial court and the Court of Appeals, we cannot entertain petitioners' contention that many of them by themselves and through their predecessors-in-interest have possessed portions of land even before the war. They should have filed homestead or free patent applications.

Our jurisdiction is limited to the resolution of the legal issue as to whether the 1973 Constitution is an obstacle to the implementation of the trial court's 1964 final and executory judgment ejecting the petitioners. On that issue, we have no choice but to sustain its enforceability.

Nevertheless, in the interest of social justice, to avoid agrarian unrest and to dispel the notion that the law grinds the faces of the poor, the administrative authorities should find ways and means of accommodating some of the petitioners if they are landless and are really tillers of the soil who in the words of President Magsaysay deserve a little more food in their stomachs, a little more shelter over their heads and a little more clothing on their backs. The State should endeavor to help the poor who find it difficult to make both ends meet and who suffer privations in the universal struggle for existence.

A tiller of the soil is entitled to enjoy basic human rights, particularly freedom from want. The common man should be assisted in possessing and cultivating a piece of land for his sustenance, to give him social security and to enable him to achieve a dignified existence and become an independent, self-reliant and responsible citizen in our democratic society.

To guarantee him that right is to discourage him from becoming a subversive or from rebelling against a social order where, as the architect of the French Revolution observed, the rich are choking with the superfluities of life but the famished multitude lack the barest necessities.

Indeed, one purpose of the constitutional prohibition against purchases of public agricultural lands by private corporations is to equitably diffuse land ownership or to encourage "owner-cultivatorship and the economic family-size farm" and to prevent a recurrence of cases like the instant case. Huge landholdings by corporations or private persons had spawned social unrest.

Petitioners' counsel claims that Biñan Development Co., Inc. seeks to execute the judgment in Civil Case No. 3711, the ejectment suit from which this prohibition case arose, against some of the petitioners who were not defendants in that suit (p. 126, Rollo).

Those petitioners are not successors-in-interest of the defendants in the ejectment suit. Nor do they derive their right of possession from the said defendants. Those petitioners occupy portions of the disputed land distinct and separate from the portions occupied by the said defendants.

We hold that that judgment cannot be enforced against the said petitioners who were not defendants in that litigation or who were not summoned and heard in that case. Generally, "it is an axiom of the law that no man shall be affected by proceedings to which he is a stranger" (*Ed. A. Keller & Co. vs. Ellerman & Bucknall Steamship Co.*, 38 Phil. 514, 520).

To enforce the judgment against those who were not parties to the case and who occupy portions of the disputed land distinct and separate from the portions occupied by the defendants in the ejectment suit, would be violative of due process of law, the law which, according to Daniel Webster in his argument in the Dartmouth College case, is the law of the land, a law which hears before it condemns, which proceeds upon inquiry and renders judgment

only after trial. "The meaning is, that every citizen shall hold his life, liberty, property, and immunities, under the protection of the general rules which govern society." (Cited in *Lopez vs. Director of Lands*, 47 Phil. 23, 32. See *Gatchalian vs. Arlegui*, L-35615 and *Tang Tee vs. Arlegui*, L-41360, February 17, 1977, 75 SCRA 234 and *Berses vs. Villanueva*, 25 Phil. 473.)

Contempt incident . - During the pendency of this case, or at about four o'clock in the morning of December 12, 1978, Ciriaco Tebayan, Domingo Nevasca, Rogelio Duterte and Sofronio Etac, employees of the Crown Fruits and Cannery Corporation, plowed or bulldozed with their tractors a portion of the disputed land which was occupied by Melquiades Emberador, one of the petitioners herein. The disputed land was leased by Biñan Development Co., Inc. to the canning corporation.

The four tractor drivers destroyed the improvements thereon worth about five thousand pesos consisting of coffee, coconut and banana plants. Emberador was in the hospital at the time the alleged destruction of the improvements occurred. However, it should be noted that Emberador was not expressly named as a defendant in the ejectment suit. Apparently, he is not included in the trial court's decision although he was joined as a co-petitioner in this prohibition case.

The petitioners in their motion of January 11, 1979 asked that the four tractor drivers and Honesto Garcia, the manager of Biñan Development Co., Inc., be declared in contempt of court for having disregarded the restraining order issued by this Court on August 29, 1977, enjoining specifically Judge Vicente N. Cusi and the provincial sheriff from enforcing the decision in the ejectment suit, Civil Case No. 3711 (pp. 46-47, 138-141, Rollo).

Garcia and the four drivers answered the motion. The incident was assigned for hearing to Judge Antonio M. Martinez of the Court of First Instance of Davao. Judge Martinez found that the plowing was made at the instance of Garcia who told the barrio captain, petitioner Lausan Ayog, a Bagobo, that he (Garcia) could not wait anymore for the termination of this case.

The record shows that on April 30, 1979 or four months after the said incident, Emberador, in consideration of P3,500, as the value of the improvements on his land, executed a quitclaim in favor of the Crown Fruits and Cannery Corporation (Exh. 1, 2 and 3).

We hold that no contempt was committed. The temporary restraining order was not directed to Biñan Development Co., Inc. its officers, agents or privies. Emberador was not named specifically in the trial court's judgment as one of the occupants to be ejected.

For the redress of whatever wrong or delict was committed against Emberador by reason of the destruction of his improvements, his remedy is not in a contempt proceeding but in some appropriate civil and criminal actions against the destroyer of the improvements.

In resume, we find that there is no merit in the instant prohibition action. The constitutional prohibition relied upon by the petitioners as a ground to stop the execution of the judgment in the ejectment suit has no retroactive application to that case and does not divest the trial court of jurisdiction to enforce that judgment.

WHEREFORE , the petition is dismissed for lack of merit but with the clarification that the said judgment cannot be enforced against those petitioners herein who were not defendants in the ejectment case, Civil Case No. 3711, and over whom the lower court did not acquire jurisdiction. The contempt proceeding is also dismissed. No costs.

SO ORDERED.

Concepcion, Jr., Guerrero, Abad Santos, Relova, and Gutierrez, Jr., JJ., concur.

Fernando, C. J., in concurring, states that the Court is unanimous as to the dismissal of the petition. But while joining the concurring opinion of Justice Vasquez, he further states that there are only seven votes to the qualification therein mentioned, although Justice Vasquez made clear that he was relying in the holding of this Court in *Ariem v. De los Angeles*, L-32164, Jan. 31, 1973, 49 SCRA 343.

Teehankee, J., He concur, subject to the clarification in the concurrence of Mr. Justice Vasquez.

Makasiar, J., He also join Justice in his concurring opinion.

De Castro, J., concurring but with clarification opinion of Justice Vasquez.

Melencio-Herrera, J., He concur in the main opinion and in the suggested modification in Justice Vasquez's separate concurrence.

Plana, J., He concur in the main opinion as clarified in the concurrence of Justice Vasquez.

Vasquez, J., see concurring opinion.

Escolin, J., no part.

[*] According to respondent corporation, some of the adverse claimants or protestants were not landless farmers but were well-educated persons belonging to the middle class. Thus, Elpidio Okay was an elementary school principal. Vicente Rehoy was a landowner and barrio captain. Patricio de Leon was a cashier and later assistant branch manager of the Philippine National Bank. Ernesto Pañares was a high school teacher and later a college professor. Francisco Mateo was a former college dean (p. 105, Rollo).

According to the 44 petitioners, they are tillers of the soil (p. 126, Rollo).

CONCURRING OPINION

VASQUEZ, J.:

I concur with the very ably written main opinion. However, I wish to erase any possible erroneous impression that may be derived from the dispositive portion insofar as it declares that the judgment in the ejectment case may not be enforced against the petitioners who were not defendants in Civil Case No. 3711 and over whom the lower court did not acquire jurisdiction.

The judgment in any case is binding and enforceable not only against the parties thereto but also against "their successors in interest by title subsequent to the commencement of the action" (Sec. 49[b], Rule 39, Rules of Court). We have previously held that the judgment in an ejectment case may be enforced not only against the defendants therein but also against the members of their family, their relatives or privies who derive their right of possession from the defendants (*Ariem vs. Delos Angeles*, 49 SCRA 343).

A further clarification of the dispositive portion is apparently needed to exclude from the effect of the judgment in the ejectment case only the petitioners who do not derive their right of possession from any of the defendants in the ejectment suit.

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