

CARIDAD FRANCO, PETITIONER, VS. THE HONORABLE EXECUTIVE SECRETARY, RICARDO T. VILLEGAS, REPRESENTED BY SALUD TORIBIO, AND THE HONORABLE COURT OF FIRST INSTANCE OF PALAWAN, BRANC...

G.R. No. L-49911. October 16, 1986

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

This is a petition for review on certiorari of the decision dated October 29, 1976 of the former Court of First Instance of Palawan, Branch I, which dismissed petitioner's petition for judicial review by certiorari in Special Civil Case No. 901.

The facts of this case are undisputed.

On October 8, 1929, private respondent Ricardo T. Villegas filed with the Bureau of Lands an application to acquire by sale 2.8415 hectares of public land located as Calero, Puerto Princesa, Palawan. The application was entered as Sales Application No. 12842 (E-2007). On February 12, 1931, private respondent paid the full purchase price of the land. On August 22, 1934, Sales Patent No. 691 covering the land was issued to private respondent. The said patent was transmitted by the Bureau of Lands for registration to the Register of Deeds of Puerto Princesa, Palawan on August 29, 1934. However, for unknown reasons, the patent was not registered in the Register of Deeds.

On September 15, 1960 or 26 years after private respondent's sales patent was issued, petitioner filed with the Bureau of Lands a protest against the Sales Application No. 12841 (E-2007) of private respondent alleging that she and her parents or predecessors-in-interest, have been in actual occupation of the land since 1913 up to the filing of the protest. On April 16, 1962, the Director of Lands dismissed the claim of petitioner, stating therein that the land in question long ceased to be part of public domain and is now a private property; that his office no longer has jurisdiction over the said land because a sales patent had already been issued to private respondent way back on August 22, 1934.

Petitioner appealed to the then Secretary of Agriculture and Natural Resources, the Honorable Fernando Lopez. In June, 1970, the said Secretary reversed the decision of the Director of Lands. He expressed the view that because the sales patent of private respondent was never registered in the Office of the Register of Deeds, the land had not lost its status as a public land and, therefore, is still under the control and jurisdiction of the Director of Lands. He ruled therein, as follows:

"The contention of the Director of Lands that he lost control or jurisdiction over the land in question when a sales patent was issued therefor may find support in the decision of July 21, 1959. (Director of Lands vs. Heirs of Carle, G.R.L. 12485) wherein the Supreme Court ruled that when a parcel of public land is patented and the corresponding certificate of title is issued pursuant to Section 122 of Act No. 496, the land ceased to be a part of the public domain and becomes private land, over which the Director of Lands has neither control nor

jurisdiction.

"The case at bar, however, is a different one in the sense that the sales patent issued for the land in question was not registered and no title therefor was issued as shown in a certificate dated August 15, 1960 of the Register of Deeds of Palawan.

"Under this circumstance, this Office believes that the land in question had not lost its status as a public land and therefore is still under the control and jurisdiction of the Director of Lands as provided in the Public Land Act."

"x x x." (Decision, p. 2; Rollo, p. 28)

From the aforesaid decision, the heirs of private respondent appealed to the Office of the President. On December 13, 1971, the then Assistant Executive Secretary, acting "by authority of the President", set aside the decision of the former Secretary of Agriculture and Natural Resources and reinstated the decision of the Director of Lands which dismissed the protest of Caridad Franco. The Assistant Executive Secretary who passed upon the appeal of private respondent ruled that once a patent is issued, the land has the character of a registered property in accordance with Section 122 of Act 496; and that even if Sales Patent No. 691 of private respondent was not registered with the Register of Deeds, said respondent had already acquired a vested right over the land in question.

Thereafter, petitioner instituted before the former CFI of Palawan, Special Civil Case No. 901 for judicial review by Certiorari. After trial and hearing, the lower court, on October 29, 1976, dismissed the petition. Hence, this appeal. Petitioner raises the following assignment of errors:

I

"THE LOWER COURT GRAVELY ERRED IN RULING THAT THE PROPERTY IN QUESTION BELONGS TO THE PATENTEE DESPITE THE NON-COMPLIANCE WITH THE PROVISIONS OF SECTION 122 OF ACT NO. 496; and

II

"THE LOWER COURT GRAVELY ERRED IN STATING THAT THERE WAS A PERFECT RIGHT GRANTED BY THE PATENT ISSUED WHICH WILL CAUSE AN INJUSTICE, BECAUSE:

"a) At the time of the application and the issuance of the patent there was already a private owner to the property;

"b) It would be violative of the Constitution; and

"c) It would justify fictitious ownership."

The crucial issue in this case is whether or not private respondent Ricardo Villegas is entitled to the land in question because of an unregistered sales patent which he had obtained or whether it is the petitioner Caridad Franco, and now her heirs, who have substituted for her, who should be recognized as having a better right to the 2.8 hectares or the land in question.

There is no dispute that private respondent's sales patent application which was filed on October 8, 1929 was approved and the corresponding Sales Patent No. 691 was issued to him on August 29, 1934. Thereafter, the patent was forwarded to the Register of Deeds of Puerto Princesa, Palawan, on August 29, 1934 by the Bureau of Lands for Registration. However, the sales patent was not registered for unknown reasons.

Before resolving, however, the legal issues attendant to the case, it is as much relevant and proper and equally

important, to consider certain significant facts which do not appear to be controverted. All these are stated in the decision of the then Secretary of Agriculture and Natural Resources (Annex "A", Petition; Rollo, p. 27), and are as follows:

"The land in question involves an area of 2.8415 hectares situated in Calera, Puerto Princesa, Palawan. Appellant claims that the land was originally occupied by her parents, Canuto Panganiban and Dominga San Jose, in 1913; that after their death her grandmother Felisa Malones, her half-brother Camilos de los Santos and she continued to live in the land and introduced improvements thereon; that she has not seen any persons by the name of Ricardo Villegas nor any one in his behalf entered the land; that nobody molested them in their possession and cultivation thereof until in 1960 when an ejection case against her was filed by Juan Pe Tin San, a Chinese citizen who claims ownership of the land and the improvements thereon; and that the land was never sold to Ricardo Villegas, Juan Pe Tin San, or to Pe Chuaco and Company, a Chinese corporation.

"xxx xxx xxx

In the ocular inspection of the land in question conducted on the premises by a representative of the Director of Lands on March 7, 8, and 15, 1961 and on July 15, 1961, it was found that appellant Franco was actually in possession of the land in question. There were also found thereon improvements introduced by appellant, as follows: A fence surrounding the land; two houses, one of which was occupied by the appellant and her family; two hundred coconuts all bearing with ages of about 30 years, several cacao, coffee, mango, jackfruit, all bearing and other fruit bearing trees all about 30 years old, etc. Neither the appellee, nor his alleged heirs and/or representatives were present during the said inspection despite the fact that official notice was sent directing them to be present thereat.

"xxx xxx xxx

"In the formal investigation conducted in this case by a representative of the Director of Lands in 1961, neither the appellee nor his alleged heirs were present to protect their rights over the land in question. A Chinese by the name of Juan Pe Tin San, accompanied by his lawyer appeared before the investigator and testified among other things that he did not know where appellee Villegas is at the present time; and that he is a co-owner of the land in question and administrator of the Pe Chuaco & Co. Earlier, in an ejection case filed by the said Juan Pe Tin San against the appellant and her husband before the Justice of the Peace Court of Puerto Princesa, Palawan, in 1960, and in the hearing thereof, he also testified that Pe Chuaco & Co., a Chinese corporation, is the owner of the land and has been in possession of the same since 1925 to the present; that said company has been paying the taxes thereof since 1925 to the present; and they have been planting coconuts thereon.

"The alleged heirs of appellee Ricardo T. Villegas did not refute or raise any objection to the foregoing testimony of Juan Pe Tin San.

"Under our Constitution, aliens cannot acquire agricultural lands in the Philippines except by hereditary succession. The records do not show how Juan Pe Tin San or Pe Chuaco & Co. had acquired the land in question from appellee Ricardo Villegas; neither was it shown therein that said Juan Pe Tin San or the Pe Chuaco & Co. had at any time occupied the said land. In other words Juan Pe Tin San claims ownership of the land in question without evidence of ownership thereof.

"From the foregoing testimony of Juan Pe Tin San, this Office could gather that appellee Ricardo T. Villegas had been used as a dummy by the Pe Chuaco & Co., in its attempt to acquire the land in question. The records show that appellee Villegas filed in 1929 a sales application for the subject land which is at present claimed by the Pe Chuaco & Co., as owner thereof. Such act is believed tantamount to fraudulent concealment and is manifestly illegal which this Office abhors and cannot countenance as a means to acquire a portion of the patrimony of the nation.

"Furthermore, the records do not show that appellee Villegas had at any time acquired ownership of the land he applied for nor the improvements thereof. He had not also at anytime occupied the land and introduced

improvements thereon even after the award of the said land to him which is one of the essential requirements of the award before a patent therefor can be issued. A violation of this requirement is enough ground for the cancellation of the award.

"On the other hand, the records show that appellant Franco is the actual possessor and occupant on the land in question; that she has occupied the same and introduced improvements thereon through her predecessor-in-interest since 1913; that the improvements found thereon are introduced by her and her predecessor-in-interest and are more or less 30 years of age; and that her possession and occupation in the land was open, public and peaceful until in 1960 when Juan Pe Tin San filed an ejection case against her with the Justice of the Peace Court of Puerto Princesa, Palawan.

"In the light of the facts obtaining in the instant case, this Office believes that the decision appealed from should be, as hereby it is, set aside. The Director of Lands is hereby directed to take the necessary action leading to the revocation of Sales Patent No. 691 issued to Ricardo T. Villegas. Caridad Franco is likewise directed to file the proper land application for the land in question if qualified within 60 days from the finality of this decision, otherwise she will lose her preferential right over the same.

"SO ORDERED."

With the factual background of this case as above fully recited, We find that respondents' case appears to rest merely and solely on an invoked technicality. Private respondent argues that even if the award of the sales patent on August 22, 1934 to respondent Ricardo Villegas was not registered in corresponding Registry of Deeds, nevertheless such award, in effect, withdraws the land in question from the public domain. On this reasoning, respondents urge that the decision of the Director of Lands disclaiming jurisdiction on his part to entertain petitioner's protest to the award of the Sales Patent to private respondent, be upheld. The Office of the Executive Secretary and the Court of First Instance below subscribed to this view taken by the Director of Lands, notwithstanding the contrary stand taken by Secretary of Agriculture and Natural Resources Fernando Lopez when this matter was earlier presented to his office for resolution. Contrary to the views of the public respondents in this case, We rule that the land in question never ceased to be a part of the public domain. Consequently, the Director of Lands may still act upon petitioner's protest.

The very case of DIRECTOR OF LANDS VS. COURT OF APPEALS, ET AL., 17 SCRA 71-72, invoked by the public respondents, supports a conclusion that the subject land is still a part of the public domain. In the above-mentioned case, it was expressly declared that "prior to the issuance of a patent and its registration, the government retains the title to the land" (*supra*, on page 71). The other cases cited by public respondents in their Appellees' Brief, have no bearing on the principal and basic issue involved in this instant case as the facts therein recited are clearly different from those obtaining in the case at bar.

Well settled is the rule that once the patent is granted and the corresponding certificate of title is issued, the land ceased to be part of the public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction. (*Sumail vs. Judge of the CFI of Cotabato, et al.*, G.R. No. L-8287, Apr. 30, 1955; *Republic vs. Heirs of Ciriaco Carle*, G.R. No. L-12485, July 31, 1959; *Director of Lands vs. Jugado* 2 SCRA 32). However, the award of sales application merely authorizes the applicant to take possession of the land so that he could then comply with the requirements prescribed by law before a final patent can be issued in his favor (Section 28, Commonwealth Act No. 141). Before the requirements are complied with, the Government still remains the owner thereof, as in fact the application could still be cancelled and the land awarded to another applicant should it be shown that the legal requirements had not been complied with. What divests the Government of its title to the land is the issuance of the sales patent and its subsequent registration in the Office of the Register of Deeds. Such registration is the operative act that would bind the land and convey its ownership to

the applicant (Section 107, Commonwealth Act 141; Section 122, Act No. 496; Visayan Realty Inc., vs. Meer, 96 Phil. 515 [Underscoring supplied]).

From the pronouncements in the cited cases, it is, therefore, evident that two (2) circumstances should concur before the land is deemed excluded from the public domain. First, is the issuance of the sales patent AND secondly, its subsequent registration in the office of the Register of Deeds. It is the registration of the sales patent that constitutes the operative act that would convey ownership of the land to the applicant. In the instant case, it is a conceded fact that no registration of the sales patent in favor of respondent Ricardo Villegas, was ever at all effected. No change or transfer of ownership of the said land from the government to the private respondent Ricardo Villegas can, therefore, result. And as the land in question continues to remain, part of the public domain, the Director of Lands retains jurisdiction to act on the matter of the protest filed by herein petitioner.

We also find no merit in the submittal of the public and private respondents that petitioner herein, Caridad P. Franco had already lost her rights to register her protest to the sales award obtained by private respondent, because she and her parents had allegedly failed to take any steps to perfect their claimed rights or to obtain in their favor the title to the subject land. Respondents contend that the sales application of Ricardo Villegas for the land was subsisting since 1929 but petitioner Caridad Franco never contested the same until after the award in 1934 to private respondent had been made and then only on September 15, 1960 after the lapse of thirty-one (31) years all in all.

What is more determinative, however, in our considered view, and more in consonance with equity, is the inherent right of those who have continuously and peacefully occupied and cultivated the subject property since 1913, to be maintained as lawful possessor thereof against a party who appears to have surreptitiously obtained the sales patent for the same land and thereafter, conveyed it to someone who is not even entitled under our laws to acquire the same.

On the matter of laches raised by respondents, it should be considered that the petitioner herein and her predecessors-in-interests were in peaceful possession of the subject land. It was their privilege to apply for the Homestead and/or a Sales Patent at such time when they so please or when they consider themselves financially able to do so. Undisturbed from their possession and occupancy of the said public land, the petitioner, Caridad Franco, and her parents, could fairly assume that they could apply for a government patent at a proper and convenient time. We are not aware of any law which prescribes a specific time limit when a peaceful occupant of a public land should submit an application for a land patent or forfeit his right to do so.

The records of this case even indicate that indeed the grandparents of herein petitioner occupied the land in 1913 and they actually filed Homestead Application Nos. 19371 and 8401. The first application was cancelled on December 18, 1916, and the second was likewise rejected on September 26, 1926 but only for want of compliance with the homestead law (Rollo, p. 31). This might perhaps explain why petitioner's family did not earlier solicit a Sales Patent. It was then more practical for them to pursue a homestead application and endeavor to fulfill the requisites asked for.

It cannot be rightfully said that petitioner is in laches for not opposing the sales application of Ricardo Villegas. It can be readily noted and there is no proof shown, that Caridad Franco and/or her predecessors-in-interests were ever aware of the said sales application of Ricardo Villegas before or after the award made in 1934. What is evident is that Ricardo Villegas inadvertently or purposely, did not cause to be registered the sales patent award which could give at least notice thereof to others. Petitioner Caridad Franco, apparently did not apply for a sales patent because her family had instead submitted applications for homestead which were, however, not approved pending compliance of the requisites for such homestead patent.

What is, however, clear and evident is that when the peaceful possession and occupation of her land was challenged in 1960 by a certain Juan Pe Tin San who filed an eviction case against Caridad Franco in Puerto Princesa, Palawan, herein petitioner Caridad Franco, promptly reacted by submitting a protest against the sales application of Ricardo Villegas. Presumably, it was only at that time in 1960 when petitioner herein learned that other persons were seeking to deprive them of their occupancy rights. Thus, on September 15, 1960, Caridad Franco began her protest against the sales award to Ricardo T. Villegas. Since then said petitioner had continuously exerted efforts to secure administrative and judicial reliefs in order that the rights of her family over the said Land can be preserved. When Caridad Franco died on March 30, 1980 (Rollo, p. 175), she was substituted by her brother Mr. Carmelo de los Santos (Rollo, p. 196).

Petitioner's untiring efforts to be vindicated in every forum available to her militates against and rejects the submission of respondents that laches bar petitioner's cause.

The Court disagrees completely with the submission of the public respondents that because of the failure to effect registration of the Sales Patent "it devolves upon the government to take all the necessary steps to make the grantee's title perfected, that is, for the Register of Deeds to register said patent and issue to the grantee the corresponding certificate of title to the property." (Appellees' Brief, p. 14). The fallacy of this proposition can be readily realized when it is considered that the uncontroverted facts disclosed after a formal investigation conducted by a representative of the Director of Lands in 1961, reflect that Ricardo T. Villegas could have "been used as a dummy by the Pe Chauco & Company in its attempt to acquire the land in question." Thus, the Secretary of Agriculture and Natural Resources, in his decision in DANR Case No. 5203 held that the acts of private respondent was "x x x tantamount to fraudulent concealment and is manifestly illegal, which this office abhors and can not countenance as a means to acquire a portion of the patrimony of the nation." (Decision, Office of the Secretary of Agriculture and Natural Resources, Annex "A", p. 3, Rollo, p. 29). It would be ironical and clearly prejudicial, both to the State and to the petitioner, should this Court now accept the suggestion that a certificate of title be issued to private respondent based on a dubious sales patent award.

WHEREFORE, the judgment rendered by the Court of First Instance of Palawan, Branch I, dated October 29, 1976, dismissing the Petition for Certiorari, filed by Petitioner Caridad Franco in Special Civil Case No. 901 in the court below is hereby REVERSED and SET ASIDE as well as the ruling of the Executive Secretary dated December 30, 1971, which reversed the decision of the Secretary of Agriculture and Natural Resources (SANR) in the DANR Case No. 5203, entitled Caridad Franco vs. Ricardo Villegas. A new judgment is hereby entered reinstating the aforestated decision of the Secretary of Agriculture and Natural Resources in said DANR Case No. 5203, and more particularly the dispositive portion thereof which reads as follows:

"In the light of the facts obtaining in the instant case, this Office believes that the decision appealed from should be, as hereby it is, set aside. The Director of Lands is hereby directed to take the necessary action leading to the revocation of Sales Patent No. 691 issued to Ricardo T. Villegas, Caridad Franco is likewise directed to file the proper land application for the land in question if qualified within 60 days from the finality of this decision, otherwise she will lose her preferential right over the same." (Decision, p. 3 [Annex A], Rollo, p. 29)

Such right can be exercised by her heirs.

No costs.

SO ORDERED.

Feria, Acting C.J., (Chairman), Fernan, Gutierrez, Jr., and Paras, JJ., concur.

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