

ANTONIO S. PENDOT, PETITIONER, VS. HON. COURT OF APPEALS AND CASTO MADARANG, RESPONDENTS.

G.R. No. L-49022. April 12, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Petitioner Antonio S. Pendot seeks a review of (1) the decision of the Court of Appeals[1] dated July 12, 1978 in C.A.-G.R. No. SP-04892, entitled "Antonio Pendot, Petitioner, versus Casto Madarang, et al., Respondents," declaring private respondent Casto Madarang the owner of Lot 14, Block No. 13 of the Tuazon Estate, Manila; and (2) the resolution of September 8, 1978 denying petitioner's motion for reconsideration.

The antecedent facts are as follows:

The lot in question known as Lot 14, Block 13, Psd. 25502 was part of the Tuazon Estate in Sampaloc (Sta. Mesa), Manila which was acquired by the government pursuant to Commonwealth Act No. 539.[2] On August 12, 1948, the Kapisanan "Ang Buhay, Incorporated," the government entity then charged with the management and disposition of the Tuazon Estate, issued an agreement to sell (Kasunduan sa Pagbibili) covering said lot in favor of Rufina G. Vda. de Madarang, mother of herein private respondent Casto Madarang. Said agreement to sell was renewed by the Land Tenure Administration (LTA), successor of the Kapisanan.

On July 1, 1958, Rufina G. Vda. de Madarang executed a Deed of Assignment over the land in question in favor of her son, private respondent Casto Madarang. Upon her request for approval thereof, Atty. Leonardo Espanola of the LTA conducted an investigation and finding the assignment to be in order, recommended its approval subject to the condition that the installment payment be up to date. As recommended and upon a further finding that private respondent was a qualified applicant, LTA Chairman Manuel E. Castaneda issued an order on June 2, 1959 granting the award to purchase the lot in question to the latter. Agreement to sell No. 3422 was executed on the same date, to take effect on May 22, 1959.

On April 10, 1963, Casto Madarang sought for and was granted permission and authority by the LTA to mortgage the subject lot with the GSIS.

Subsequently, in January of 1966, petitioner Antonio S. Pendot, without any prior permission or authority, entered into and constructed a house on said lot. He then filed an application with the LTA, but the same was disapproved. Whereupon, he filed a protest, docketed as LA Case No. 779, seeking to set aside the award in favor of Madarang and praying for the issuance thereof in his favor. LA Case No. 779 was consolidated with LA Cases Nos. 777 and 793, two (2) other protests against Casto Madarang, but after due hearing, all three (3) protests were dismissed on June 17, 1970 by then Land Authority Governor Conrado F. Estrella.

Petitioner's motion for reconsideration, second motion for reconsideration and supplemental pleading having proved unavailing, he sought relief through an appeal with the Office of the President. He, however, fared no better for in a letter-decision dated April 30, 1973, the Executive Secretary, acting by authority of the President of

the Philippines, dismissed the appeal and affirmed the decision of the Land Authority that private respondent has the preferential right to purchase the property in question.

Having exhausted his administrative remedies, petitioner filed with the then Court of First instance (CFI) of Manila a special civil action for certiorari (Special Civil Case No. 91928) against Casto Madarang, the Department of Land Reform and the Executive Secretary. The petition was dismissed on June 17, 1975 for failure of petitioner to establish the element of abuse of discretion.

Petitioner seasonably perfected his appeal to the Court of Appeals, which in a decision[3] dated June 20, 1977 reversed the decision of the trial court and ordered therein respondent Department of Land Reform "to cancel the award of Lot No. 14, Block 13, Psd. 25502 of the Tuazon Estate, Manila in favor of Casto Madarang, and to award said lot to petitioner-appellant x x x." [4]

Public respondents therein Department of Land Reform and Executive Secretary, thru the Solicitor-General moved for a reconsideration, but were denied the relief sought in the resolution dated September 9, 1977.

On October 22, 1977, private respondent thru counsel Jose B. Soriano filed an urgent motion with the Court of Appeals, alleging that "since the beginning, x x x Casto Madarang has not received a copy of any order, resolution or decision issued or pleading filed in connection with the above-entitled case" and praying that he "be furnished through his undersigned counsel with a copy of any order, resolution or decision issued or pleading filed x x x for the protection of his interest or enforcement of his right." [5]

Acting on said urgent motion, the Court of Appeals resolved to inform Atty. Soriano that "he may come to the Court to review the record of the case if he so desires and/or secure certified true copies of any pleadings or orders which he may need," considering that respondent-appellee have been represented by Atty. Cipriano Tan and the Office of the Solicitor General. [6]

Private respondent reiterated his urgent motion, pleading with the appellate court to furnish him with a copy of the decision in the case through his counsel as he has had no legal representation during the proceedings thereat and to enable him to take the appropriate steps from receipt of said decision. [7] This Reiteration of Urgent Motion was denied in a resolution dated December 27, 1977. [8]

Undaunted, private respondent filed a motion for reconsideration. Attached was the certification issued by Cipriano A. Tan, Trial Attorney and Special Counsel, Office of the Solicitor-General, stating:

"TO WHOM IT MAY CONCERN:

"This is to certify that the undersigned, per authority from the Solicitor General, appeared only as counsel for the respondents government officials in Civil Case No. 91928 of the Court of First Instance of Manila, Branch XXVIII, entitled 'Antonio S. Pendot vs. Casto Madarang, Department of Agrarian Reform and Executive Secretary, Malacanang, Manila.' There were, however, certain occasions when the undersigned was asked by the trial court to make special appearances for the private respondent Casto Madarang whenever the latter needed immediate legal assistance and counseling during the proceedings.

"It is hereby further certified that after the case has been appealed by petitioner Antonio S. Pendot to the Court of Appeals, there was never any occasion when the undersigned has ever represented the said private respondent Casto Madarang, as the respondents government officials were represented directly by the Office of the Solicitor General.

"Diliman, Quezon City, January 5, 1978." [9]

On January 25, 1978, the Court of Appeals resolved to authorize its Judgment Section to furnish private

respondent thru his counsel with a copy of the decision.[10] Thereafter, private respondent filed a motion for reconsideration of the decision of June 20, 1977, which was opposed by petitioner. On July 12, 1978, the appellate court, thru a division of five,[11] reversed the decision of June 20, 1977 and declared private respondent Casto Madarang as owner of Lot 14, Block No. 13 of the Tuazon Estate.[12]

His motion for reconsideration and its supplement having been denied in a resolution dated September 8, 1978,[13] petitioner filed the instant petition for review, alleging that the Court of Appeals gravely erred as follows:[14]

1. THAT IT ERRED IN RELYING HEAVILY ON THE CERTIFICATION ISSUED BY ATTY. CIPRIANO TAN TO THE EFFECT THAT AFTER PETITIONER PENDOT HAS APPEALED TO THE HON. COURT OF APPEALS THERE WAS NEVER ANY OCCASION WHEN HE HAS EVER REPRESENTED CASTO MADARANG;
2. IT ERRED IN ENTERTAINING THE MOTION FOR RECONSIDERATION FILED BY RESPONDENT MADARANG FROM THE DECISION DATED JUNE 20, 1977 SIMPLY BECAUSE THE SAME HAS LONG BECOME FINAL AND EXECUTORY;
3. IT ERRED IN PROMULGATING THE QUESTIONED DECISION DATED JULY 12, 1978 COMPLETELY REVERSING ITS DECISION DATED JUNE 20, 1977 WHICH HAS LONG BECOME FINAL AND EXECUTORY;
4. IT ERRED IN APPLYING THE DOCTRINE LAID DOWN IN THE CASE OF 'ASTUDILLO -VERSUS- BOARD OF DIRECTORS OF PHHC, ET AL.', L-29066, SEPTEMBER 22, 1976, 73 SCRA 15; IN THE CASE AT BAR;
5. IT ERRED IN NOT APPLYING THE PROVISIONS OF SECTION 1 OF COMMONWEALTH ACT NO. 539 WHICH IS THE LAW INVOLVED IN THE INSTANT CASE.

The issues boil down to: (1) whether or not private respondent Casto Madarang was duly represented in the proceedings before the appellate court; and, (2) who between petitioner and private respondent has the preferential right to purchase the lot in controversy.

We find no merit in the petition.

The determination of whether or not private respondent Casto Madarang had proper representation in the proceedings before it is a question best addressed to the appellate court which had the means, not available to us in a petition for review on certiorari, to verify the truth or falsity of the contents of the certification issued by Atty. Cipriano Tan. Having been given credence, the weight assigned to said certification must be respected for the Supreme Court is not supposed to reweigh evidence, but only to determine its substantiality.[15]

And certainly, the documentary evidence under consideration meets the requirement of substantiality for it is in accord with the common knowledge that the Solicitor General in whose behalf Atty. Tan appeared in the lower court is primarily the lawyer for the government and its agencies. The situation or arrangement claimed by petitioner that private respondent was likewise represented by the Solicitor General thru Atty. Tan would indeed be an exceptional case, thereby lending belief to the averment in the certification that the representation was only for "certain occasions when the undersigned (Atty. Tan) was asked by the trial court to make special appearances for the private respondent Casto Madarang whenever the latter needed immediate legal assistance and counseling during the proceedings." [16] Consequently, the presumption that an attorney who appears de parte in a case before the lower court continues to represent his client on appeal [17] does not have application to the case at bar, the representation of Atty. Tan for private respondent before the lower court being merely in the nature and

character of "special appearances". Stretched to its logical conclusion, the decision of June 20, 1977 cannot be said to have attained finality with respect to private respondent as no valid service thereof had been effected upon him until after the appellate court authorized its Judgment Section to furnish him, thru his counsel, with a copy of said decision.

Anent the second issue, we rule that private respondent Casto Madarang is entitled to purchase the lot in question. He has in his favor Agreement to Sell No. 3422 which was executed way back in 1959. The right conferred upon him by said Agreement to Sell cannot be defeated by petitioner's unauthorized intrusion into the lot in question and subsequent construction of a house thereon. The status of petitioner in relation to the subject property is that of a squatter, pure and simple. This determination was made in the first instance by the Land Authority and affirmed by the Office of the President as well as the Court of Appeals. Thus, as observed by the Court of Appeals:

"1. Under the stipulation of facts reproduced in petitioner-appellant's brief, Antonio Pendot, erected in 1966 a 'barong-barong' (p.15, Appellee's Brief) on the lot awarded in 1959 by the Land Tenure Administration to herein respondent, Casto Madarang. Having entered the premises without any colorable title, Antonio Pendot is, therefore a pure and simple squatter. In fact, when he contested Madarang's proprietary right before the defunct Land Authority, said office exactly branded him as such. Thus: 'x x x Mr. Pendot is a squatter on the lot in dispute because he entered said lot and built his house thereon in 1966 long after agreement to sell No. 3442 for said lot was issued to respondent Casto Madarang on June 2, 1959.' (p. 12, Rec.)

"Similarly, when he elevated his case for review to the Office of the President, no less than the Executive Secretary made the same observation by stating that his 'x x x entry was without any color of title as the same was done without knowledge and permission from any government entity or agency.' Hence, the Executive Secretary continues, 'his stay upon the land was that of a mere squatter, and, therefore, could only expect from the government such treatment as befits his status.' (pp.19-20, rec.)

"Considering that Mr. Pendot is a mere squatter, we hold that his stay in the land would not entitle him to exclude others, including Casto Madarang who had admittedly been the registered awardee of the lot since 1959." [18]

Petitioner has presented no cogent or persuasive argument for us to depart from this conclusion or the ruling laid down in *Astudillo v. Board of Directors of PHHC*, supra, that a squatter has no possessory rights over the land intruded upon. He has not demonstrated that he is a so-called "deserving squatter". His claim that private respondent Casto Madarang is likewise a registered PHHC grantee does not improve his position since assuming arguendo this allegation to be true, the same does not automatically deprive private respondent of his right to the lot in question and entitle petitioner to the same for the qualifications of an awardee are to be determined at the time of the filing of the application.[19] It had been established through the investigation conducted by Atty. Espanola of the LTA that private respondent was in 1959 a qualified applicant. If at all, his disqualification would refer to the PHHC lot subsequently acquired.

Neither could petitioner's reliance on Section 1 of Commonwealth Act No. 539 save the day for him. Said legal provision reads:

"Sec. 1. The President of the Philippines is authorized to acquire private lands or any interest therein, through purchase or expropriation, and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their bona fide tenants or occupants or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines."

In *Republic vs. Vda. de Caliwan*, [20] we categorically stated:

"In at least two occasions in the past, we have ruled that persons guilty of illegal entry cannot invoke the benefits of Commonwealth Acts Nos. 20 and 529 (should be 539) (providing for the expropriation by the government of large landed estates to be sold at cost to their bona fide tenants or occupants), the purpose of these laws being to aid and benefit lawful occupants and tenants or those endowed with legitimate tenure, by making their occupancy permanent and giving them an opportunity to become owners of their holdings. In short, these laws are not meant for the benefit of the lawless.

"In *Enriquez, et al. v. Panlilio, et al.*, G.R. No. L-7325, promulgated July 16, 1954, we said:

‘Commonwealth Act No. 538 (should be 539) contemplates the expropriation of lands lawfully occupied, where said occupancy is known and permitted by the owner under an agreement, express or implied, of tenancy, and where the tenants and occupants are observing the terms of the agreement by paying the rentals agreed upon or, a reasonable amount ascertained by the court for the use and occupation of the premises. The purpose of the law is to aid and benefit the lawful occupants and tenants, by making their occupancy permanent and giving them an opportunity to become owners of their holdings.’

while in *Bernardo, et al. v. Bernardo and C.A.*, G.R. No. L-5872, November 29, 1954, we stated that:

‘in carrying out its social readjustment policies, the government could not simply lay aside moral standards, and aim to favor usurpers, squatters, and intruders, unmindful of the lawful or unlawful origin and character of their occupancy. Such a policy would perpetuate conflicts instead of attaining their just solution. It is safe to say that the term "bona fide occupants" was not designed to cloak and protect violence, strategy, double dealing, or breach of trust."

WHEREFORE, in view of the foregoing, the instant petition for review is DENIED for lack of merit. Costs against petitioner. This decision is immediately executory.

SO ORDERED.

Gutierrez, Jr., Bidin, and Cortes, JJ., concur.
Feliciano, J., on leave.

[1] Penned by Associate Justice Porfirio v. Sison, concurred in by Associate Justice Emilio A. Gancayco. Associate Justice Nestor B. Alampay filed a separate concurring opinion, which was concurred in by Associate Justice Lorenzo Relova. Justice Pacifico P. de Castro dissented.

[2] An Act authorizing the President of the Philippines to acquire private lands for resale in small lots; providing for the creation of an agency to carry out the purposes of this Act; and setting aside funds and authorizing the issuance of bonds for the payment of said land.

[3] Penned by Justice Pacifica de Castro, concurred in by Justices Jose G. Bautista and Nestor B. Alampay

[4] Annex "P", Petition, p. 46, Rollo

[5] Anex "F", Petition, p. 59, Rollo

[6] Annex "G", Petition, p. 61, Ibid.

[7] Annex "H", Ibid., p. 62, Ibid.

[8] Annex "K", Ibid., p. 67, Ibid.

[9] p. 70, Ibid.

[10] Annex "N", Petition, p. 72, Ibid.

[11] "In the disposition of private respondent Madarang's motion for reconsideration, Justice Porfirio Sison dissented from the majority, 2 to 1. In view of this, 2 additional justices were designated to form a division of 5. When the 2 additional members had cast their votes, the verdict became 3 to 2 in favor of granting the motion for reconsideration dated March 8, 1978. However, in the final voting, one justice decided to vote to grant the motion, citing a recent ruling of the Supreme Court. [This drew the concurrence of an additional justice who had earlier voted against the motion.] Thus, the final verdict stood at 4 to 1 to grant the motion." (pp. 86-87, Rollo).

[12] Annex "S", Petition, pp. 86-94, Rollo

[13] Annex "W", Petition, p. 108, Ibid.

[14] p. 17, Rollo

[15] Tolentino v. Court of Appeals, G.R. No. 56265, May 20, 1987, 150 SCRA 16

[16] *supra*, footnote 9

[17] Sec. 22, Rule 138, Rules of Court

[18] p. 87, Rollo.

[19] Tongco v. C.A., 20 SCRA 687.

[20] 2 SCRA 594

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