

**IN THE MATTER OF THE APPLICATION FOR REGISTRATION OF
LAND. LEONOR DE LOS ANGELES, FEDERICO DE LOS ANGELES, ET
AL., APPLICANTS AND APPELLANTS, VS. ISIDORO O. SANTOS,
ANTONIO ASTU...**

G.R. No. L-19615. December 24, 1964

Ponente: BENGZON, J. P., J.

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BENGZON, J. P., J.:

Squarely before this Court in this appeal is the important and fundamental question of whether a land registration court which has validly acquired jurisdiction over a parcel of land for registration of title thereto could be divested of said jurisdiction by a subsequent administrative act consisting in the issuance by the Director of Lands of a homestead patent covering the same parcel of land.

The court a quo held in effect that it could be, as it dismissed the application to register title to the land in its order brought here on appeal.

On November 21, 1959 an application for registration of title to 12 parcels of land in Ampid, San Mateo, Rizal was filed in the Court of First Instance of Rizal by Leonor de los Angeles and seven co-applicants. Among other things it alleged that "applicants are owners pro-indiviso and in fee simple of the aforesaid land".

The required notices were given in which May 27, 1960 was set for the initial hearing. On March 8, 1960 the Director of Lands filed an opposition stating that the land "is a portion of the public domain". The province of Rizal also interposed an opposition on May 24, 1960, asserting "the required 3.00 meters strips of public easement" on lots along Ampid River and a creek.

At the initial hearing on May 27, 1960 an order of general default was issued except as against the Director of Lands, the Province of Rizal and eleven private oppositors who appeared therein. On July 10, 1960 the aforesaid private oppositors, Julio Hidalgo among them, filed their written opposition claiming they "are the lawful owners of the parcels of land in question for having acquired homestead patents over said lots".

On July 25, 1961 a "Report" was filed in court by the Land Registration Commissioner, stating:

"1. That the parcel of land described as Lot 11 of plan Psu-158867, applied for in the above-entitled registration case, is a portion of that described on plan Psu-148997, previously patented on June 12, 1961 under Patent No. 95856 in the name of Julio Hidalgo; and

"2. That Case No. N-2671, LRC Record No. N-18332, was set for hearing on May 27, 1960 but no decision has as yet been received by this Commissioner.

"WHEREFORE, it is respectfully recommended to this Honorable Court that Case No. N-2671, LRC Record No. N-18332, be dismissed with respect to Lot 11 of plan Psu-158867 only, giving due course, however, to the other lots in the application."

Acting thereon, the court required applicants, in its order of July 29, 1961, to show cause why their application should not be dismissed as to Lot 11 (10.6609 hectares). On August 16, 1961 applicants filed an "opposition to motion to dismiss". But on September 18, 1961 the court issued an order dismissing the application with respect to Lot 11 "without prejudice on the part of applicants to pursue the corresponding remedy in any ordinary action". After a motion for reconsideration was filed and/or denied, applicants appealed to this Court.

As lone assignment of error it is alleged that "the lower court grievously erred in dismissing the application for registration as regards Lot No. 11, over which a homestead patent was issued by the Director of Lands during the pendency of the registration proceedings". (Italics supplied.)

To start with, it is well settled that the Director of Lands' jurisdiction, administrative supervision and executive control extend only over lands of the public domain and not to lands already of private ownership. (Susi vs. Razon, 48 Phil. 424; Vital vs. Anore, 53 Off. Gaz., 3739; Republic vs. Heirs of Carle, 105 Phil., 1227; Director of Lands vs. De Luna, 110 Phil., 28.) Accordingly, a homestead patent issued by him over land not of the public domain is a nullity, devoid of force and effect against the owner (Zarate vs. Director of Lands, 34 Phil. 416; Vital vs. Anore, supra).

Now, in the land registration proceedings applicants contended that as of November 21, 1959 the date they applied for registration they were already "owners pro-indiviso and in fee simple of the aforesaid land". As a result, if applicants were to successfully prove this averment, and thereby show their alleged registrable title to the land, it could only result in the finding that when Julio Hidalgo's homestead patent was issued over Lot 11 on June 12, 1961, said lot was no longer public. The land registration court, in that event, would have to order a decree of title issued in applicants' favor and declare the aforesaid homestead patent a nullity which vested no title in the patentee as against the real owners (Rodriguez vs. Director of Lands, 31 Phil. 273; Zarate vs. Director of Lands, supra; Lacaste vs. Director of Lands, 63 Phil. 654).

Since the existence or non-existence of applicants' registrable title to Lot 11 is decisive of the validity or nullity of the homestead patent issued as afore-stated on said lot, the court a quo's jurisdiction in the land registration proceedings could not have been divested by the homestead patent's issuance.

Proceedings for land registration are in rem, whereas proceedings for acquisition of homestead patent are not (De los Reyes vs. Razon, 38 Phil. 480; Philippine National Bank vs. Ortiz Luis, 53 Phil. 619). A homestead patent, therefore, does not finally dispose of the public or private character of the land as far as courts acting upon proceedings in rem are concerned (De los Reyes vs. Razon, supra).

Applicants should thus be given opportunity to prove registrable title to Lot 11.

WHEREFORE, We hereby set aside the orders appealed from and remand the case to the court a quo for further proceedings, without costs.

SO ORDERED.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

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