

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. TOMAS MARQUEZ, DEFENDANT AND APPELLEE.

G.R. No. L-11615. November 29, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal from a judgment rendered by the Court of First Instance of Isabela dismissing the plaintiff's complaint, without costs, which prays for annulment of two (2) homestead patents granted to the defendant Tomás Marquez, cancellation of original certificates of title Nos. I-1683 and I-2406 issued in his name by the Registrar of Deeds in and for the province of Isabela and reversion to the State of the homestead land together with the improvements made thereon.

The complaint filed on 12 April 1949 in the Court of First Instance of Isabela alleges that Tomás Marquez, a resident of Calinauan Norte, Cabagan, Isabela, and who is duly qualified to acquire public land, filed his application for homestead patent (H. A. No. 90878 and H. A. No. 90878-A) of two parcels of public land situated in barrio Calinauan Sur, municipality of Tumauni, province of Isabela; that after having complied with the requirements of the Public Land Act with respect to occupation and cultivation, on 15 December 1936, he was granted homestead patents for the two parcels of land by the Secretary of Agriculture and Natural Resources (Nos. 23140 and 38154), and upon the aforesaid homestead patents the Registrar of Deeds in and for the province of Isabela issued in his name original certificates of title Nos. I-1683 and I-2406; that on 16 June 1947, Tomás Marquez requested Juan R. Nery, a notary public of the municipality of Tumauni, Isabela, to prepare a document of partition of the two parcels of land, the parcel of land described in original certificate of title No. I-1683 issued on 18 December 1936, to be divided between him and Juan Acupido and that described in original certificate of title No. I-2406 issued on 25 July 1933, to be divided between him and Fernando Aguinaldo in the proportions stated in an instrument dated 16 July 1947 (Exhibit A); that under oath the defendant Tomás Marquez stated that the homestead lands applied for by him were for his exclusive benefit and for no other person; that the defendant Tomas Marquez violated the provisions of Secs. 88 and 89 of C.A. No. 141, as amended, and prays that original certificates of titles Nos. I-1683 and I-2406 issued in his name be cancelled and the homestead lands together with their improvements be reverted to the State, with costs against the defendant (Civil Case No. 177).

On 29 April 1949, answering the complaint the defendant denies under oath the authenticity and due execution of the documents (Exhs. A and B) attached to the complaint, and alleges as special defense that he did not violate the provisions of the Public Land Act as he had applied for the two parcels of land as his homestead for his own personal benefit and his family.

On 30 January 1955, defendant moved to dismiss the complaint on the ground that it does not state a cause of action and that the action is barred by the statute of limitations. On 17 February 1955, the Director of Lands in behalf of the plaintiff filed an objection to the motion to dismiss. On 16 July, the Court denied the motion to dismiss.

After hearing, on 28 September 1956, the trial court rendered judgment dismissing the complaint as already stated at the beginning of this opinion. On 2 November 1956 a motion for reconsideration filed by the plaintiff was denied. The plaintiff has appealed.

The appellant assigns two errors claimed to have been committed by the trial court—

- The lower Court erred in not holding that defendant-appellee violated Section 88, sub-section (e) of Act No. 2874 and in not ordering the cancellation of original certificates of title Nos. I-1683 and I-2406, in his name and the reversion to the State of the property therein described; and
- The lower Court erred in dismissing plaintiff-appellant's complaint.

The point to determine is whether the appellee Tomás Marquez violated Section 90, sub-section (e) of Commonwealth Act 141, which provides:

"That the application is made for the exclusive benefit of the applicant and not, either directly or indirectly, for the benefit of any other person or persons, corporations, association or partnership."

Relying on the documents marked Exhibits A, B and C, the appellant contends that the appellee Tomás Marquez falsely stated under oath that "This application is made for land as homestead for my exclusive personal use and benefit for the purpose of actual settlement, occupation, residence and cultivation, and not, either directly or indirectly, for the use or benefit of any other person, persons, corporations or association of person" (Exhibit C-1), because in truth and in fact the parcels of land applied for by him were not for his exclusive personal use and benefit but for his benefit and that of Juan Acupido and Fernando Aguinaldo.

The due execution of the instrument dated 16 July 1947 (Exhibit A) was testified to by notary public Juan R. Nery and was not denied by the appellee. It is a fact, however, as testified to by the appellee, that he, Juan Acupido and Fernando Aguinaldo verbally agreed to clear and cultivate parts of the homestead land applied for by the appellee, (p. 20, t.s.n.). In other words, he applied as homestead for two parcels of land containing a total area of 16.2773 hectares. Subsequently, after filing the application he entered into a verbal agreement with Juan Acupido and Fernando Aguinaldo for the last two to clear and cultivate parts of the parcels of land applied for by him as homestead, and to convey to them the parts of the land cleared and cultivated by them, provided that they would share in and contribute to the expenses for acquiring such homestead lands. So when he filed his application he did state no falsehood which would justify cancellation of the homestead patents and reversion of the homestead lands and improvements made thereon to the State. Neither did he violate the provisions of the Public Land Act on alteration or encumbrance of lands of the public domain acquired as homestead when on 16 July 1947 he agreed to divide the homestead lands to give his co-tenants the parts they had cleared and cultivated, because, from 15 December 1936 when the homestead patents were issued to 16 July 1947 when the appellee executed the instrument conveying or transferring to his co-tenants the parts of the homestead lands they had cleared and cultivated, more than ten (10) years already had elapsed. Appellee's honesty, in living up to his promise, should be commended.

The judgment appealed from is affirmed, without pronouncement as to costs.

Bengzon, C.J., Bautista Angelo, Labrador, Concepción, Reyes, J.B.L., Barrera, Paredes, and Makalintal, JJ., concur.

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