

**CRESENCIA ANTONEL AND ISIDORO DIONISIO,
PLAINTIFFS-APPELLANTS, VS. LAND TENURE ADMINISTRATION
NOW LAND AUTHORITY AND LORENZO CABRERA,
DEFENDANTS-APPELLEES.**

G.R. No. L-24924. July 31, 1968

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

This is a direct appeal by the spouses Cresencia Antonel and Isidoro Dionisio from a decision of the Court of First Instance of Manila, dismissing in civil case no. 57102 their complaint for the annulment of (1) the order of November 13, 1956 of the Land Tenure Administration in LTC case no. 100, entitled, "Lorenzo Cabrera vs. Cresencia Antonel," and (2) a letter dated August 27, 1959 of the Assistant Executive Secretary of the Office of the President awarding to Lorenzo Cabrera a 5-square meter portion of lot 26, Block 24, Pcs-2561, of the Nuestra Señora de Guia Estate in Tondo, Manila.

The Republic of the Philippines purchased the Nuestra Señora de Guia Estate pursuant to the legislative policy declared in Comm. Act 539.[1] This Act authorized the expropriation or purchase of private lands to be subdivided into small lots for resale to "their bona fide tenants or occupants" at reasonable prices. On June 5, 1950 Cresencia Antonel, married to Isidoro Dionisio, applied to the Landed Estates Division of the Bureau of Lands[2] for the Purchase of lot 25, Block 24, Fes-2551, of the aforesaid estate, containing an area of 125.7 square meters. On April 5, 1951, Director of Lands Jose P. Dans, acting for and in representation of the Republic of the Philippines, executed an "Agreement to Sell" (contract no. 06213) covering the said lot in favor of the applicant. This agreement was approved by the Secretary Agriculture and Resources on the same. The applicant then made a down payment of P128.27, and obligated herself to pay the balance in installments of P12.00 a month for 10 years.

On October 1, 1954 Lorenzo Cabrera protested the execution of the "Agreement to Sell," on the ground that he has the preferential right to buy the lot as an occupant thereof. In view of this protest, the Director of Lands conducted an investigation at which the protestant and the applicant adduced their respective testimonial and documentary evidence.

On July 11, 1955 the Director rendered a decision, the pertinent portions of which are quoted hereunder:

"* * * Lorenzo Cabrera adduced testimonial and documentary evidence which substantially tend to show that the lot in question was first occupied in 1940 by one Lucia Gabriel who constructed thereon a 'barong-barong' that on February 8, 1947, as actual occupant, Lucio Gabriel made a deposit of forty (P40.00) pesos with the defunct Rural Progress Administration for the acquisition of a portion of the Nuestra Señora de Guia Estate (Exhibit 'A', Cabrera); that on April 22, 1947, Lucio Gabriel sold his rights to the land and barong-barong standing thereon in favor of his mother Severina Arceo, (Exhibit Cabrera); that later on, Severina Arceo transferred her rights to Cabrera; and that in 1948 he allowed Cresencia Antonel to occupy the vacant portion

of the lot in question.

"Cresencia Antonel and her witness alleged that the land in question formed part of the land which her brother-in-law, Perfecto Llorena fenced; that in 1939 she occupied the land by fill-ing it up and building a barong-barong thereon; that When the land was acquired by the Government, the area fenced by Perfecto Llorena was subdivided into two (2) lots, hence, Llorena gave the lot in question occupied by Cresencia Antonel to her; that the barong-barong of Lorenzo Cabre-ra was constructed in 1948 in the adjacent road lot; that this site occupied by Lorenzo Cabrera belongs formerly to one Pedro Flores who sold his rights to Lorenzo Cabrera; that it is not true that she was merely tolerated by the claimant to - occupy, the land; that she has been paying her ren-tals for the occupation of the lot since February 24, 1947 (Exhibit 1 and I-A, Antonel); and that she filed her application to purchase the lot in ques-tion on June 5, 1950, and Agreement to Sell No. 06213 was issued in her favor.

"Lorenzo Cabrera has contested the sale of the land in favor of Cresencia Antonel on the ground of prior occupancy of the lot by himself and his, predecessors in interest, rut the evi-dence presented by him on this point has failed to establish that the alleged lot occupied and sold by Lucio Gabriel in favor of Severina Arceo, the mother of Lorenzo Cabrera (Exhibit A) is the same lot in question. It is true that presently his house on the road-lot protrudes on a portion of the lot in controversy, but it is believed this was a recently built addition to this house. This belief is supported by the sketch plan of the lots in the Nuestra Señora de Guia Estate, prepared in the later part of 1950, after a census of the occupants of the estate was made and the relative Positions of their occupations ascertained. This plan shows that Lot No. 26, Block 24, Pcs-2561 of the estate is solely occupied by Cresencia Antonel, while Lorenzo Cabrera is occupying the road-lot adja-cent to the lot subject of this case. On the basis of the foregoing and because of the fact that Cre-sencia Antonel has been paying her rentals for the land since February, 1947, we are more inclined to give credence to he alleged prior occupancy of the lot in question.

"WHEREFORE, this Office holds and so decides that the claim of Lorenzo Cabrera should be, as hereby it is, denied and dismissed. The sale of the Lot No, 26, Block 24, Pcs-2561, Nuestra Senora de Gina Estate, Tondo, Manila, to Cresencia Antonel shall be given due course."

The Director, acting on Cabrera's subsequent petition for reconsideration or reopening of the administrative case, rendered an amended decision on September 28, 1955, finding that Cabrera's house protrudes on a portion of the lot in question, designated as "X", of an area of 7.8 square meters. The Director resolved to exclude that portion from the area sold to Cresencia Antonel and awarded it to Cabrera.[3] The protestant and the applicant moved for a reconsideration of the amended decision.

The Land Tenure Administration; which in the meantime had assumed the functions and powers of the Landed Estates Divi-sion, resolved the motions for reconsideration (LTC Case 100, en-titled "Lorenzo Cabrera vs. Cresencia Antonel") in an order dated November 23, 1956, by modifying, the amended decision of the Director of Lands. It ordered the division of lot 26 into two separate lots of 68.7 sq.m. and 57 sq. m. The first it awarded to Antonel, the second to Lorenzo Cabrera, en appeal by Antonel, Assistant Executive Secretary Enrique Quema of the Office of the President affirmed the amended decision of the Director of Lands in a letter of August 27, 1959, in the following words:

" * * * neither of the parties acquired pre-ferential rights to the lot in question as bona fide tenants of the estate. However, both were recog-nized as occupants thereof, it appearing that they had erected their respective dwellings thereon. The house of Cresencia Antonel is on the upper portion while that of Lorenzo Cabrera occupies a part of the lower portion and of a road lot. Por-tion 'X', which was originally awarded to Loren-zo Cabrera, contains only seven and 8/10 square meters. The utter impracticability of erecting a dwelling on such a small area is too evident to require argument.

"Considering that the parties herein have equal rights to occupancy and that the award of portion 'X' to Lorenzo

Cabrera is inequitable', the Land Tenure Administration subdivided the lot in such a manner as to be responsive to the needs of both parties to erect their respective houses thereon. In so doing, it acted not only in conformity with the law and regulations on the matter but al-so in harmony with the established policy of affording the landless equal opportunities to acquire home lots."

On October 28, 1959 the Land Tenure Administration executed an "Agreement to Sell" (contract no. 4049) covering lot 26-A of lot 26, containing an area of 57 square meters, in favor of Lorenzo Cabrera.

On May 21, 1964 Cresencia Antonel and Isidoro Dionisio instituted the present action in the Court of First Instance of Manila, impugning the award and subsequent sale of the 57-square-meter portion of lot 26 to Lorenzo Cabrera as an "illegal and unwarranted impairment of the obligation of contract," because long before the award was made the Government had already sold the entire lot to her. She prayed that the orders and decisions of the Land Tenure Administration and the Assistant Executive Secretary be annulled and set aside.

Resolving the issues raised in the complaint and discussed in the separate answers filed by the Land Tenure Administration and by Lorenzo Cabrera, and in the memoranda of the contending parties, the lower court rendered judgment on June 26, 1965, dismissing the complaint, without costs, upon the view "that the order or decision sought to be reviewed and annulled has [not] violated any rule or law, x x x since the alleged contract (No. 06213) is governed by rules and regulations on the matter and are subject to conditions which must first be complied with. In short, said contract is not final and absolute."

Hence this appeal by the spouses.

The issue tendered for resolution is whether the lower court erred in holding that no "rule or law" has been violated by the Land Tenure Administration and the Assistant Executive Secretary in ad-judging that Cresencia Antonel and Lorenzo Cabrera "have equal rights to occupancy" of lot 26, and are entitled to 68. 7 and 57 square meters of the lot, respectively.

Although the decision of the Land Tenure Administration which was affirmed by the Assistant Executive Secretary and echoed by the decision appealed from, found that Antonel actually occupied 117.9 of the 125.7-square-meter lot in dispute, and that Cabrera actually occupied the remaining 7.8 square meters, it nevertheless, considered the "utter impracticability of erecting a dwelling [by Lorenzo] on Such a small area" of 7.8 square meters, and resolved to reduce the portion occupied by Antonel by 49.2 square meters and add it to Lorenzo's, and awarded to him a total area of: 57 square meters.

We are of the view that the Land Tenure Administration and the Office of the President incurred in grave error in declar-ing that Cabrera is, entitled to the portion of lot 26 awarded to him. And we hold that, upon the evidence on record, Antonel has satis-factorily established her preferential right to purchase the entire lot to the exclusion of Cabrera, for several reasons.

First. - Antonel occupied the lot in 1939, and introduced improvements thereon by "filling it up" and building a barong-barong. Cabrera, on his part, claims that his predecessor Lucio Gabriel first occupied the lot in 1940. Antonel was, therefore, ahead in date of occupation by 1 year. Second. - The "sketch' plan" of the lots comprising the Nuestra Senora de Guia Estate, prepared in the later part of 1950 after a census of the occupants of the estate was made and their relative positions ascertained, shows that "lot No. 26, Block 24, Pcs-2561 of the estate is solely occupied by Cresencia Antonel, while Lorenzo Cabrera is occu-pying the road-lot adjacent to the lot subject .of this case." Third. - Apart from Antonel's prior occupancy of the lot in dispute, she has been paying rentals since February 24, 1947. Cabrera, on the other hand, has not paid any rental for his; supposed occupation of the 7.8-square-meter portion of the disputed lot. His averment that Lucio Gabriel made a 40 deposit with the defunct Rural Progress Administration does not improve his posi-tion, because the deposit was made in general

terms, that is, "for the acquisition of a portion of the Nuestra Senora de Guia Estate," and not specifically for lot 26, Fourth. - Antonel applied for the purchase of the entire lot as early as June 5, 1950, and, on the basis of this application, the Director of Lands, on April 6, 1951, executed "Agreement to Sell" no. 16213 in her favor. This agreement was approved by the Secretary of Agriculture and Natural Resources on the same date. She made a first payment in the sum of P128. 27. Upon the other hand, Cabrera has never applied for the purchase of the lot or of the portion thereof sup-posedly occupied by him. Fifth. - Cabrera protested the "Agreement to Sell" only after more than 4 years' and 4 months had elapsed from June 5, 1950 (when Antonel filed her application to purchase the entire lot), and after 3 years and 6 months had passed since April 6, 1951 (When the Bureau of Lands executed the "Agreement to Sell" - approved by the Secretary of Agriculture and Natural Resources). He has not even submitted any plau-sible explanation for the delay in filing his protest.

The division of lot 26 containing an area of only 125.7 square meters into two lots of 68.7 and 57 sq. meters, instead of enhancing the purpose of Commonwealth Act 539, Acts 1170 and 1933 (Friar Lands Acts) and Corn. Acts 20, 26 and 378 (Homesite Acts), which is to sell to a person the land on which his house stands,[4] and afford him an opportunity to become the owner of a home and a residential lot,[5] would defeat the very letter of the Said legislative enactments. This Court held in *Grande and Josef vs. Santos and Santos and Director of Lands*,[6] that a 144-square-meter lot "is barely enough for a single family," and that to subdivide it into three separate lots "may, and, in all probability would lead to frictions, conflicts, misunderstandings and, per-haps, disturbances of the peace, which are precisely sought to be averted by Commonwealth Act No. 539," and concluded that adjudicating the entire 144-square-meter lot to Dalisay Santos is in consonance "With either the letter, or the spirit, of said legis-lative enactment."

ACCORDINGLY, the judgment a quo is reversed; the order of the appellee Land Tenure Administration of November 13, 1956 in LTC Case 100, entitled "*Lorenzo Cabrera versus Cresencia Antonel*," the confirmatory letter of the Assistant Executive Secre-tary of August 27, 1959, and the "Agreement to Sell" (Contract No. 4049) covering lot 26-A of lot 26, executed by the appellee Land Tenure Administration in favor of the appellee Lorenzo Cabrera, are annulled and set aside. The plaintiff-appellant Cresencia Antonel is hereby adjudged as entitled to purchase the entire lot 26, containing an area of 125.7 square meters, Block 24, Pcs-2561, of the Nuestra Señora de Guia Estate, in Tondo, Manila, and the "Agreement to Sell" (Contract No. 06213), dated April 6, 1951, executed by the Director of Lands in favor of the said appellant Cresencia Antonel, married to Isidoro Dionisio, is hereby declared in full farce and effect. Costs against the defendant-appellee Lorenzo Cabrera.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.

[1] Approved May 26, 1940.

[2] Ex. Order 191, approved March 2, 1939, charged the defunct Rural Progress Administration with the disposition and administration of all landed estates of the Government. Ex. Order 376, approved November 28, 1950, transferred such powers and functions to the Landed Estates Division of the Bureau of Lands. Section 23 of R.A. 1400, approved September 9, 1955, abolished the Landed Estates Division and transferred its functions, powers and duties, personnel, records, etc., to the Land Tenure Administration, now known as The Land Authority under R.A. 3844

[3] See Answer of defendant LTC, R. A., p. 35.

[4] *Javillonar vs. Nat'l. Planning Commission*, 100 Phil. 485, 489.

[5] *Bernardo, et al. vs. Bernardo, et al.*, 96 Phil, 202, 206, citing *Messages of the President*, Vol. 4, pp. 288-290.

[6] 98 Phil. 62, 67; see also sec. 3, R.A. 1162, which fixed the area that an occupant may purchase from the estates expropriated by the Government at 150 square meters.

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