

TOMAS GARCIA ET AL., PLAINTIFFS AND APPELLEES, VS. LUCIA DINERO AND THE DIRECTOR OF LANDS, DEFENDANTS, LUCIA DINERO, DEFENDANTS-APPELLANT.*G.R. No. L-499. March 20, 1948*

Ponente: PARAS, J.

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According to the stipulation of facts upon which this case was decided by the trial court, the parcel of land here in question was registered in Pangasinan on November 5, 1901 under a possessory information stating that said land, purchased from Carlos Valdez, had been in the possession of Angelo Aguilan for twenty-six years. . Upon the death of the latter on December 9, 1908, the land descended upon his heirs who, however, agreed extrajudicially to assign the same to Francisca Aguilan, a daughter of Angelo Aguilan,. Francisca Aguilan had held the land as owner until March 1, 1930, when she and her husband, Tomas Garcia, sold it for P700.00 to the spouses Cosme Dinero and Dionisia Villanueva, subject to the former's right to redeem the land on or before March 1, 1932. After the death of Cosme Dinero on April 16, 1936, Dionisia Villanueva, in her own behalf and that of her daughter Lucia Dinero, consolidated their ownership (as heirs of Cosme Dinero) over the land by registering in Pangasinan the deed of sale executed by Francisca Aguilan and Tomas Garcia. On June 30, 1936, Lucia Dinero applied for a free patent for the land, which application was approved by the Director of Lands on September 15, 1936. Free Patent No. 2540 was issued in favor of Lucia Dinero on August 30, 1937, covering three lots including the land here in question. In the meantime, or on June 9, 1937, Lucia Dinero and her mother, Dionisia Villanueva, resold the land for P750.00 to Tomas Garcia and Francisca Aguilan who, on the same date, transferred it to Leocadio Nano and Cristina Balbin. From, the latter, Tomas Garcia and Francisca Aguilan repurchased the land on April 29, 1943.

The trial court, sustaining plaintiffs' complaint, held that Free Patent No. 2540 is null and void. The defendant-appellant, Lucia Dinero, herein contends that the lower court erred in holding that the land is private, and not public, and that the sale of June 9, 1937 in favor of Tomas Garcia and Francisca Aguilan is valid.

The private character of the land, especially in so far as the appellant is concerned, should be beyond controversy. The fact was recognized when her parents bought the property from Tomas Garcia and Francisca Aguilan in 1930 and when she and her mother, by virtue of that sale, consolidated their title thereto after the death of appellant's father, Cosme Dinero. the possessory information registered as early as 1901 is of course prima facie proof of ownership on the part of Angelo Aguilan, father of Francisca Aguilan (La 0 vs. Director of Lands, 43 Off. Gaz., 504), and such private ownership was not affected by the issuance of Free Patent No. 2540, at the instance of the appellant herself, since the Public Land Law applies only to lands of the public domain, and the Director of Lands has no authority to grant to another a free patent for land that has ceased to be a public land and has passed to private ownership, and a title so issued is null and void. (Lacaste vs. Director of Lands, 63 Phil. 654; Lizada vs. Omanan, 59 Phil. 547, 555.)

Free Patent No. 2540 being thus a nullity as regards the land in question, which was already private before and at the time the appellant filed her application with the Director of Lands, there is no merit in appellant's contention that the resale from her and her mother on June 9, 1937 to the appellees, Tomas Garcia and Francisca Aguilan, is violative of section 118 of Commonwealth Act No. 141 prohibiting alienation of lands acquired under the free patent or homestead provisions from the date of the approval of the application and for five years after the issuance of the patent or grant.

The appealed judgment is, therefore, hereby affirmed, with costs against the appellant. So ordered.

Perfecto, Hilado, Briones, and Tuason, JJ., concur.

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