

CATALINA DE LOS SANTOS, IN HER CAPACITY AS ADMINISTRATRIX OF THE INTESTATE ESTATE OF THE DECEASED JULIO SARABILLO, PLAINTIFF AND APPELLEE, VS. ROMAN CATHOLIC CHURCH OF MIDSAYAP,...

G.R. No. L-6088. February 25, 1954

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On December 9, 1938, a homestead patent covering a tract of land situated in the municipality of Midsayap, Province of Cotabato, was granted to Julio Sarabillo and on March 17, 1939, Original Certificate of Title No. RP-269 (1674) was issued in his favor.

On December 31, 1940, Julio Sarabillo sold two hectares of said land to the Roman Catholic Church of Midsayap for the sum of P800 to be dedicated to educational and charitable purposes. It was expressly agreed upon that the sale was subject to the approval of the Secretary of Agriculture and Natural Resources.

In December, 1947, a request for said approval was submitted in behalf of the Roman Catholic Church by Rev. Fr. Gerard Mongeau stating therein that the land would be used solely for educational and charitable purposes. The sale was approved on March 26, 1949, and on March 29, 1950, the deed of sale was registered in the Office of the Register of Deeds for the Province of Cotabato. No new title was issued in favor of the Roman Catholic Church although the deed was annotated on the back of the title issued to the homesteader.

In the meantime, Julio Sarabillo died and intestate proceedings were instituted for the settlement of his estate and Catalina de los Santos was appointed administratrix of the estate. And having found in the course of her administration that the sale of the land to the Roman Catholic Church was made in violation of section 118 of Commonwealth Act No. 141, the administratrix instituted the present action in the Court of First Instance of Cotabato praying that the sale be declared null and void and of no legal effect.

In their answer defendants claim that the sale is legal and valid it having been executed for educational and charitable purposes and approved by the Secretary of Agriculture and Natural Resources. They further claim that, even if it be declared null and void, its immediate effect would be not the return of the land to appellee but the reversion of the property to the State as ordained by law. Defendants also set up as a defense the doctrine of *pari delicto*.

As a preliminary step, the court, upon petition of counsel for defendants, directed the clerk of court, assisted by a representative of both parties, to appraise the value of the improvements existing on the controverted land and to submit to the court a report of his findings. This was done, the clerk of court reporting that the value of the improvements was P601.

After the parties had submitted the case on the pleadings, in addition to the report of the clerk of court as to the value of the improvements existing on the land, the court rendered decision declaring the sale null and void and

ordering the plaintiff to reimburse to the defendants the sum of P800 which was paid as purchase price, plus the additional sum of P601 as value of the improvements, both sums to bear interest at 6 per cent per annum from the date of the complaint, and ordering defendants to vacate the land in question. Dissatisfied with this decision, the case was taken to the Court of Appeals but it was later certified to this Court on the ground that the appeal merely involves questions of law.

It appears that the patent covering the tract of land which includes the portion now disputed in this appeal was issued to the late Julio Sarabillo on December 9, 1938, and the sale of the portion of two hectares to the Roman Catholic Church took place on December 31, 1940. This shows that the sale was made before the expiration of the period of five years from the date of the issuance of the patent and as such is null and void it being in contravention of section 118 of Commonwealth Act No. 141. The fact that it was expressly stipulated in the deed of sale that it was subject to the approval of the Secretary of Agriculture and Natural Resources and the approval was sought and obtained on March 26, 1949, or more than ten years after the date of the issuance of the patent, or the fact that the deed of sale was registered in the Office of the Register of Deeds only on March 29, 1950; and was annotated on the back of the title on that date, cannot have the effect of validating the sale for the reason that the approval of the Secretary of Agriculture and Natural Resources does not have any valid curative effect. That approval is merely a formality which the law requires if the sale is effected after the term of five years but before the expiration of a period of 25 years for the purpose of testing the validity of the sale on constitutional grounds. But, as was ruled by this Court, the absence of such formality will not render the transaction null and void (*Evangelista vs. Montaña*,^[1] G. R. No. L-5567). What is important is the period within which the sale is executed. The provision of the law which prohibits the sale or encumbrance of the homestead within five years after the grant of the patent is mandatory. This cannot be obviated even if official approval is granted beyond the expiration of that period, because the purpose of the law is to promote a definite public policy, which is "to preserve and keep in the family of the homesteader that portion of public land which the State has gratuitously given to him." [*Pascua vs. Talens*,^[2] 45 Off. Gaz., No. 9, (Supplement) 413.]

The claim that the sale can be validated because it was made with the avowed aim that the property would be dedicated solely to educational and charitable purposes is likewise unmeritorious even considering the law invoked by counsel for appellants in favor of its validity. It is true that under section 121, Commonwealth Act No. 141, a corporation, association, or partnership may acquire any land granted as homestead if the sale is done with the consent of the grantee and the approval of the Secretary of Agriculture and Natural Resources and is solely for commercial, industrial, educational, religious, or charitable purposes, or for a right of way, and apparently there is no limitation therein as to the time within which such acquisition may be made. But this provision should be interpreted as a mere authority granted to a corporation, association or partnership to acquire a portion of the public land and not as an unbridled license to acquire without restriction for such would be giving an advantage to an entity over an individual which finds no legal justification. It is our opinion that the authority granted by section 121 should be interpreted as subject to the condition prescribed in section 118, namely, that the acquisition should be after the period of five years from the date of the issuance of the patent.

But appellants now contend that even if it be declared that the sale made to them by the homesteader is null and void yet its immediate effect would be not the return of the land to appellee but rather its reversion to the State wherein the Government is the interested party. (Section 124 of the Public Land Act). Appellants further claim that the present action cannot be maintained by the appellee under the principle of *pari delicto*.

The principles thus invoked by appellants are correct and cannot be disputed. They are recognized not only by our law but by our jurisprudence. Section 124 of the Public Land Act indeed provides that any acquisition, conveyance or transfer executed in violation of any of its provisions shall, be null and void and shall produce the

effect of annulling and cancelling the grant or patent and cause the reversion of the property to the State, and the principle of *pari delicto* has been applied by this Court in a number of cases wherein the parties to a transaction have proven to be guilty of having effected the transaction with knowledge of the cause of its invalidity. (*Bough & Bough vs. Cantiveros & Hanopol*, 40 Phil., 210, 216; *Rellosa vs. Gaw Chee Hun*,^[1] G. R. No. L-1411; *Trinidad Gonzaga de Cabauatan vs. Uy Hoo, et al.*,^[2] G. R. No. L-2207; *Caoile vs. Yu Chiao Peng*,^[3] G. R. No. L-4068; *Talento, et al. vs. Makiki, et al.*,^[4] G. R. No. L-3529.) But we doubt if these principles can now be invoked considering the philosophy and the policy behind the approval of the Public Land Act. The principle underlying *pari delicto* as known here and in the United States is not absolute in its application. It recognizes certain exceptions one of them being when its enforcement or application runs counter to and avowed fundamental policy or to public interest. As stated by us in the *Rellosa* case, "This doctrine is subject to one important limitation, namely, "whenever public policy is considered advanced by allowing either party to sue for relief against the transaction." (*Rellosa vs. Gaw Chee Hun*, *supra*.)

The case under consideration comes within the exception above adverted to. Here appellee desires to nullify a transaction which was done in violation of the law. Ordinarily the principle of *pari delicto* would apply to her because her predecessor-in-interest has carried out the sale with the presumed knowledge of its illegality (8 *Manresa* 4th ed., pp. 717-718), but because the subject of the transaction is a piece of public land, public policy requires that she, as heir, be not prevented from re-acquiring it because it was given by law to her family for her home and cultivation. This is the policy on which our homestead law is predicated (*Pascua vs. Talens*, *supra*). This right cannot be waived. "It is not within the competence of any citizen to barter away what public policy by law seeks to preserve" (*Gonzalo Puyat & Sons, Inc. vs. Pantaleon de las Ama, et al.*, 74 Phil., 3). We are, therefore, constrained to hold that appellee can maintain the present action it being in furtherance of this fundamental aim of our homestead law.

As regards the contention that because the immediate effect of the nullification of the sale is the reversion of the property to the State appellee is not the proper party to institute it but the State itself, that is a point which we do not have, and do not propose, to decide. That is a matter between the State and the Grantee of the homestead, or his heirs. What is important to consider now is who of the parties is the better entitled to the possession of the land while the government does not take steps to assert its title to the homestead. Upon annulment of the sale, the purchaser's claim is reduced to the purchase price and its interest. As against the vendor or his heirs, the purchaser is no more entitled to keep the land than any intruder. Such is the situation of the appellants. Their right to remain in possession of the land is no better than that of appellee and, therefore, they should not be allowed to remain in it to the prejudice of appellee during and until the government takes steps toward its reversion to the State. (See *Castro vs. Orpiano*,^[*] G. R. No. L-4094, November 29, 1951.)

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Montemayor, Jugo and Labrador, JJ., concur.

Padilla, J., concurs in the result.

[1] 93 Phil., 275. [2] 880 Phil., 792.

[1] 93 Phil., 827.

[2] 88 Phil., 103.

[3] 93 Phil., 861.

[4] 93 Phil., 855.

[*] 90 Phil., 491.

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