

VICENTE SANTANDER, THE HEIRS OF THE LATE FORTUNATA VILLINISO NAMED CONSTANCIO, MATIAS, GENOVEVA, PAZ, JOSE, IRINEO. AND ANATALIA ALL SURNAMED SANTANDER AND CRISPULO TAJANLANGIT,...

G.R. No. L-6184. February 28, 1958

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

On July 29, 1937, a homestead patent covering a tract of land of over six hectares situated in the Municipality of Midsayap, Province of Cotabato, was granted to appellant Vicente Santander, married to Fortunato Villiniso, and on July 6, 1938, Original Certificate of Title No. 1497 was issued to Santander by the Register of Deeds of Cotabato.

On February 26, 1942, Santander signed a document purporting to be an absolute sale of a two-hectare portion of his homestead to Celedonia Asuncion, married to Manuel Villanueva, for the price of P480.00 (Exh. "1"). It was expressly stipulated in the deed that the conveyance was to become effective only after the approval of the authorities concerned. Possession of the land conveyed was, upon execution of the document, transferred to the buyer.

Seven years later, on November 2, 1948, Santander and his children (as the heirs of his deceased wife) commenced this action in the court below against Celedonia Asuncion and her husband Manuel Villanueva, to recover the two-hectare portion of Santander's homestead in defendants' possession, on the theory that the land was transferred to Asuncion only in mortgage to secure a loan of P180 obtained from her by Santander way back in June, 1940, and offering to pay defendants the alleged loan. Defendants answered, denying the allegations of the complaint, and claiming to have purchased the land in question from Santander on February 26, 1942 by virtue of the deed of sale Exh. "1", and that said sale had already been approved by the Secretary of Agriculture and Commerce on August 2, 1947 (Exhs. "3" and "3-A") (copies of Exhs. "1" and "3" and "3-A" were attached to the answer). Confronted with the deed of sale Exh. "1" and the corresponding approval of the Secretary of Agriculture and Commerce, plaintiffs amended their complaint alleging that the deed of sale Exh. "1" is false and does not express the true intent and agreement of the parties and that, in any case, said sale is null and void, having been executed within five years from the issuance of Santander's patent. Defendants filed an amended answer, insisting on the validity of the sale Exh. "1" in view of the subsequent approval thereof by the Secretary of Agriculture and Commerce.

After trial, the lower court rendered judgment, finding the sale Exh. "1" to be genuine and to have been executed by plaintiff Santander with full knowledge of its contents; but that as said sale was made within the prohibitive period of five years under sec. 118 of Commonwealth Act No. 141, the same is null and void. The court, however, likewise found that the value of the property in question had increased many-fold since the time Santander executed Exh. "1", because of the expansion of the poblacion of Midsayap and the change in kind of the land in

question from rural to urban; and that Santander had embarked on a venture of speculation, and that his evident purpose in recovering the property from defendants was merely to resell the same at fabulous profits. Wherefore, the lower court declared that plaintiffs could repurchase the land in question from defendants, but at its present value of P60,000 or at the rate of P3.00 per square meter; and furthermore recommended to the Director of Lands the cancellation of Santander's patent.

On appeal to this Court, plaintiffs-appellants raise a single question of law, namely:

THE LOWER COURT ERRED IN ORDERING THE PLAINTIFFS-APPELLANTS TO PAY DEFENDANTS-APPELLEES THE SUM OF SIXTY THOUSAND PESOS (P60,000.00) AS THE ALLEGED REPURCHASE PRICE OF THE LITIGATED PORTION OF TWO HECTARES OF LAND WHICH FORMS PART OF THE HOMESTEAD OF SAID APPELLANTS, NOTWITHSTANDING THE FACT THAT IT PRONOUNCED THE NULLITY AND INVALIDITY OF THE DEED OF SALE (EXH. "1") INVOLVING SAID PORTION AND NOTWITHSTANDING FURTHER THE FACT THAT THE STIPULATED CONSIDERATION THEREOF IS ONLY FOUR HUNDRED EIGHTY (P480.00) PESOS.

There is no question that the sale Exh. "1" was made within five years from the issuance of appellant Santander's homestead patent on July 29, 1937. It has been the consistent ruling of this Court that conveyances of homestead of this nature are null and void from inception (*Eugenio v. Perdido*, L-7063, May 19, 1955; *Acierto v. De los Santos*, L-5823, Sept. 29, 1954; *De los Santos v. Roman Catholic Church of Midsayap*, 50 O. G. No. 4, 15&8; and others); and in line with this precedent, the document Exh. "1" must be declared null and void, and the land conveyed ordered returned to appellants upon their return to appellees of the purchase price of P480.00.

The subsequent approval of the conveyance by the Secretary of Agriculture and Natural Resources on August 2, 1947 could not have validated a sale that was void from its inception. As we have held in the cases of *De los Santos v. Roman Catholic Church of Midsayap*, *supra*, and *Pascua v. Talens*, 45 Off. G. No. 9 (Supp.) 413, the provision of law which prohibits the sale or encumbrance of the homestead within five years after the grant of the patent is mandatory, and can not be obviated even if official approval is granted beyond the expiration of the period. Besides, the approval of the Secretary of Agriculture and Commerce (Exhs. "3" and "3-A") appears to have been given upon the erroneous assumption that the patent was issued in 1936, in which case said sale would have been executed after five years from the date of Santander's patent and no longer prohibited by law. The truth, however, is that Santander's patent was issued on July 29, 1937, and the sale Exh. "1" was made on February 26, 1942, or within five years from the date of the patent. The approval of the Secretary was, therefore, based on a mistake of fact, and as such is likewise void and of no effect whatsoever.

The next point is whether, having held that the sale in question is null and void, the lower court erred in ordering appellants to repurchase the land in question from appellees at the price of P60,000, which it found to be the present value of the property. In condemning appellants to repurchase at this price, the Lower court had a dual objective: to penalize appellants whom it found to have embarked in a venture of speculation over the homestead in question, and to set a precedent to those who may commit similar violations of the law in the future.

We agree with the court below that appellants should not be allowed to take advantage of the salutary policy behind the Public Land Law to enable them to recover the land in question from appellees only to dispose of it again at much greater profit to themselves. But we find no legal sanction for the judgment of the lower court requiring appellants to repurchase from appellees, and at the property's present value. The sale to appellees being null and void ab initio, appellants never lost ownership over the land in question, and appellees' right is reduced to nothing more than to recover the price paid by them for said land, which is only P480. No other relief may be given appellees in this case, for they were themselves in *pari delicto* with homesteader Santander in buying from

him land which they should have known could not be legally disposed of on the date of the sale in their favor.

In view, however, of the findings of the court below against appellant Santander, we find it appropriate, as said court has done, to refer this case to the Director of Lands for investigation and forfeiture of Vicente Santander's homestead under sec. 124 of the Public land Law, if the facts found would warrant such forfeiture.

Wherefore, the decision appealed from is modified in the sense that plaintiffs-appellants are ordered to return to appellees the sum of P480 and appellees in turn to restore- appellants in the possession of the land in question. In all other respects, the judgment appealed from is affirmed. No costs.

So Ordered.

Paras, C.J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion and Endencia, JJ., concur.

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