

FELIPE G. TAC-AN, PETITIONER, VS. HONORABLE COURT OF APPEALS AND ELEUTERIO ACOPIADO, MAXIMINO ACOPIADO, THE SPOUSES JESUS PAGHASIAN AND PILAR LIBETARIO, RESPONDENTS.

G.R. No. L-38736. May 21, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The petitioner, Felipe G. Tac-An, is a lawyer whose services were engaged by the brothers Eleuterio Acopiado and Maximino Acopiado who were accused of frustrated murder and theft of large cattle before the Municipal Court of New Piñan, Zamboanga del Norte in March, 1960.

On April 4, 1960, Tac-An caused a document entitled, "Deed of Quitclaim" to be thumb-marked by the Acopiado brothers whereby I for the sum of P1,200.00 representing his fees as their lawyer in the criminal cases, they conveyed to him a parcel of land with an area of three hectares. The document was acknowledged before Notary Public Pacifico Cimafranca on the same date who explained its contents to the Acopiadoss.

On April 6, 1960, or two days after the execution of the deed, the Acopiadoss told Tac-An that they were terminating his services because their wives and parents did not agree that the land be given to pay for his services. They also said that they had hired another lawyer, a relative, to defend them. But Tac-An continued to represent them.

In the case for frustrated murder, the Acopiadoss were acquitted. The cases for theft of large cattle were dismissed due to the desistance of the complainants.

On April 2, 1961, Eleuterio sold his share of the land previously conveyed to Tac-An to Jesus Paghasian and Pilar Libetario but the latter did not take possession thereof.

In June, 1964, Tac-An appointed Irineo Villejo, a barrio captain, as his overseer in the land. On July 2, 1964, Tac-An also secured the approval of the Provincial Governor of Zamboanga del Norte to the Deed of Quitclaim. And on October 7, 1964, Tac-An filed a complaint against the Acopiado brothers, Paghasian and Libetario in the CFI of Zamboanga del Norte. He prayed that he be declared the owner of the land; that the sale made in favor of Paghasian and Libetario be annulled; and that he be paid damages, attorney's fees, etc.

The Court of First Instance decided in favor of Tac-An whereupon the Acopiadoss, et al. appealed to the Court of Appeals.

The Court of Appeals voided the transfer of the land to Tac-An but held that for his services in the criminal cases he was entitled to the agreed upon amount of P1,200.00. The judgment of the Court of Appeals reads as follows:

"WHEREFORE, the judgment appealed from is hereby reversed and set aside. In lieu thereof, another one is rendered ordering the defendants Acopiadoss to pay the plaintiff the sum of P1,200.00 with interest at a legal rate from the date of the finality of this judgment until full payment thereof. No pronouncement as to costs. "

(Rollo, pp. 40-41.)

Petitioner Tac-An prays that the decision of the Court of Appeals be set aside and that the decision of the Court of First Instance be upheld instead.

The petition is not impressed with merit.

The Court of Appeals found as a fact that the Acopiado brothers fully understood the tenor of the Deed of Quitclaim which they executed. But the Court of Appeals also found as a fact that the Acopiado brothers are Non-Christians, more specifically Subanons, and that each is married to a Subanon. And because they are Non-Christians, the Court of Appeals applied Section 145 of the Administrative Code of Mindanao and Sulu which reads as follows:

"Sec. 145. Contracts with Non-Christians requisites. - Save and except contracts of sale or barter of personal property and contracts of personal service comprehended in chapter seventeen hereof no contract or agreement shall be made in the Department by any person with any Moro or other non-Christian tribe or portion thereof the Department or with any individual Moro or other non-Christian inhabitants of the same for the payment or delivery of money or other things of value in present or in prospective, or in the manner affecting or relating to any real property, unless such contract or agreement be executed and approved as follows:

x x x x x x x x

"(b) It shall be executed before a judge of a court of record, justice or auxilliary justice of the peace, or notary public, and shall bear the approval of the provincial governor wherein the same was executed or his representative duly authorized in writing for such purpose, indorsed upon it."

It should be stated that under Section 146 of the same Code, contracts or agreements made in violation of Sec. 145 shall be "null and void."

It should be recalled that on July 2, 1964, Tac-An secured the approval of the Provincial Governor of Zamboanga del Norte to the Deed of Quitclaim and that should have satisfied the requirement of Sec. 145 of the Administrative Code for Mindanao and Sulu. But it appears that on April 12, 1965, while Tac-An's suit was pending in the trial court, the Governor of Zamboanga del Norte revoked his approval for the reasons stated therein.

The petitioner now asserts that the revocation of the approval which had been given by the Provincial Governor has no legal effect and cannot affect his right to the land which had already vested. But as Justice Conrado M. Vasquez, with Justices Mateo Canonoy and Ameurfina M. Herrera concurring, said:

"The approval by Provincial Governor Felipe Azcuna appearing on the face of the Deed of Quit-claim (Exh. "E") made on July 2, 1964 may no longer be relied upon by the plaintiff in view of the revocation thereof by the same official on April 12, 1965 (Exh. 4). The revocation was based on the ground that the signature of Governor Azcuna was obtained thru a false representation to the effect that the alleged transaction was legal and voluntary when in truth and in fact, as found out later, the said parcel of land was the subject matter of a court litigation; and, moreover, the non-Christian vendors were not brought before him for interrogation, confirmation or ratification of the alleged deed of quitclaim. The fact that the revocation was made after the filing of instant action on October 10, 1964 does not vitiate the aforesaid action of the Provincial Governor. Significantly, no attempt was made to disprove the truth of the reasons stated in the certificate of revocation (Exh. 4)." (Rollo, p. 37.)

The petitioner also argues that the Administrative Code of Mindanao and Sulu was repealed on June 19, 1965 by Republic Act No. 4252, hence the approval of the Provincial Governor became unnecessary. Suffice it to say that at times material to the case, i. e. when the Deed of Quitclaim was executed, when the approval by the Provincial

Governor was given and when the approval was revoked, Sections 145 and 146 of the Administrative Code of Mindanao and Sulu were in full force and effect and since they were substantive in nature the repealing statute cannot be given retroactive effect. It should also be stated that the land in question must be presumed to be conjugal in nature and since the spouses of the Acopiado brothers did not consent to its transfer to the petitioner, the transaction was at least voidable.

WHEREFORE, finding the petition to be lacking in merit, the same is hereby dismissed with costs against the petitioner.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, and De Castro, JJ., concur.

Escolin, J., no part.

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