

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
PEDRO DIAMONON, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. L-7813. October 31, 1955*

Ponente: PARAS, C.J.

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On July 22, 1916, Pedro Diamonon filed a homestead application covering lots Nos. 1378 and 1376 of the Sto. Domingo Cadastre situated in the barrio of Batoc, Sto. Domingo, Nueva Ecija. Said application was approved by the Director of Lands on April 4, 1917. On June 29, 1932, Diamonon mortgaged the homestead and the improvements and future crops thereon to the spouses Donato Pangilinan and Maria de la Fuente for the sum of P822. Final proof was approved by the Director of Lands on November 9, 1933, and the issuance of homestead patent in favor of Diamonon was accordingly ordered. On February 24, 1937, Diamonon executed a deed transferring the homestead in favor of Paz Pangilinan, unmarried daughter of Donato Pangilinan and Maria de la Fuente. This conveyance was subsequently approved by the Secretary of Agriculture and Natural Resources, homestead patent No. 44987 was issued in the name of Paz Pangilinan; and on January 18, 1938, original certificates of title No. 5517 was issued in her name. On August 30, 1945, the latter in turn sold the land to Alejandro de la Fuente to whom transfer certificate of title No. 21372 was issued.

Pedro Diamonon thereafter filed an action in the Court of First Instance of Nueva Ecija against Donato Pangilinan, Maria de la Fuente, Paz Pangilinan and Alejandro de la Fuente (Civil Case No. 60-L), for the recovery of the homestead; and said court, after holding that Diamonon had the right to repurchase the land under section 16 of Act 2874, ordered the defendants to convey the land to Diamonon, upon deposit by the latter with the clerk of court of the sum of P822 to be paid to the said defendants. Upon appeal (CA-G. R. No. 2098-R), the Court of Appeals modified the decision of the Court of First Instance of Nueva Ecija by declaring the sale by Diamonon of his homestead right to Paz Pangilinan and the subsequent transfer by the latter to Alejandro de la Fuente null and void, ordering the cancellation of homestead patent No. 44987, original certificate of title No. 55187, and transfer certificate of title No. 21372; and ordering the issuance in the name of Pedro Diamonon of a new homestead patent; and ordering the spouses Donato Pangilinan and Maria de la Fuente to deliver the possession of the homestead to Diamonon upon payment to or deposit with the clerk of Court of First Instance of Nueva Ecija of the sum of P822.

On March 13, 1951, the Court of First Instance of Nueva Ecija issued in Civil Case No. 60-L an order of execution against the Director of Lands for the issuance of a new homestead patent to Pedro Diamonon. On June 22, 1951, the Director of Lands filed a manifestation with the court, praying that the order of execution be suspended until its propriety is finally determined, which manifestation was denied on December 22, 1951.

In the meantime, or on October 19, 1951, the Director of Lands, on behalf of the Republic of the Philippines, filed an action (Special Proceeding No. 840) with the Court of First Instance of Nueva Ecija, in which it was prayed that homestead patent No. 44987 issued in the name of Paz Pangilinan, transfer certificate of title No. 21372 issued in the name of Alejandro de la Fuente, and original certificate of title No. 5517 issued in the name of Paz

Pangilinan, be cancelled, and that the homestead in question be declared reverted to the mass of public domain under the administration of the Director of Lands.

On January 21, 1952, the Director of Lands instituted in this Court an original action for certiorari (G. R. No. L-5432), praying that judgment be rendered annulling the decision of the Court of Appeals in CA-G. R. No. 2098-R and the order of execution issued by the Court of First Instance of Nueva Ecija in Civil Case No. 60-L, hereinabove referred to. The certiorari proceedings was dismissed by this court, inasmuch as the question raised therein could more expediently be threshed out in Special Proceeding No. 840 brought by the Director of Lands on October 19, 1951.

In said Special Proceeding No. 840, the Court of First Instance of Nueva Ecija, upon a stipulation of facts submitted by the parties, rendered a decision on February 24, 1954, declaring the homestead in question as having reverted to the public domain and setting aside the writ of execution for the issuance of a homestead patent and a certificate of title in the name of Pedro Diamonon. The latter has taken the present appeal.

The Court of First Instance of Nueva Ecija reasoned out that as a result of the decision of the Court of Appeals declaring null and void the transfer made by appellant Diamonon of his homestead right to Paz Pangilinan, ordering the cancellation of the patent and certificate of title issued in her name, and declaring the sale by Paz Pangilinan to Alejandro de la Fuente and the transfer certificate of title issued in the latter's name cancelled, all by reason of the provisions of section 116 of Act No. 2874, the homestead in question and its improvements automatically reverted to the public domain, in view of the provisions of section 122 of Act No. 2874 which reads as follows: "Any acquisition, conveyance, alienation, transfer, or other contract made or executed in violation of any of the provisions of sections one hundred and sixteen one hundred and eighteen, one hundred and nineteen, one hundred and twenty and one hundred and twenty-one of this Act shall be unlawful and null and void from its execution and shall produce the effect of annulling and cancelling the grant, title, patent, or permit originally issued recognized, or confirmed, actually or presumptively, and cause the reversion of the property and its improvements to the Government."

Counsel for appellant, without disputing the right of the Government to institute the present action for reversion, limits his contention to the fact that the case should be decided in the light of Act No. 926 which did not provide for any reversion in case of unlawful alienations of homestead rights, because appellant's homestead application was approved on April 4, 1917, when said Act was still in force, and refuge is sought in the case of Balboa vs. Farrales, 51 Phil. 498, particularly the following syllabus:

"When a homesteader has complied with all the terms and conditions which entitle him to a patent for a particular tract of public land, he acquires a vested interest therein, and is to be regarded as the equitable owner thereof. Where the right to a patent to land has once become vested in a purchaser of public lands, it is equivalent to a patent actually issued. The execution and delivery of the patent, after the right to a particular parcel of land has become complete, are the mere ministerial acts of the officer charged with that duty. Even without a patent, a perfected homestead is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is still in the Government. Such land may be conveyed or inherited. No subsequent law can deprive him of that vested right."

The fallacy of appellant's argument lies in the failure to consider the facts in his citation, wherein final proof was approved by the Government while Act No. 926 was effective. In the case now before us, it was only on November 9, 1933, that the Director of Lands approved appellant's final proof, or about fourteen years after the enactment of Act No. 2874 on November 29, 1919. In the very case invoked by appellant it was held that a vested right over a homestead arises only upon approval of final proof.

"Section 3 of Act No. 926 provides inter alia, that upon the filing of final proof by the applicant and the

approval thereof by the Director of Lands, 'he (the applicant) shall be entitled to a patent' or certificate of title. Therefore, on February 15, 1918, after Buenavista Balboa had submitted his final proof and after the same had been approved by the Government, and while Act No. 926 was still in force, he became the owner of the land and 'entitled to a patent.' At least on that date his right to the land as owner, ripened into a vested right. It was no longer expectant as depending on the continuance of existing circumstances, or contingent as depending on some events or the performance of some conditions." (Balboa vs. Farrales, supra, p. 501.)

It is noteworthy that even in the decision of the Court of Appeals in CA-G. R. No. 2098-R, which was the basis for the order of execution issued by the Court of First Instance of Nueva Ecija in favor of appellant, Act No. 2874 was relied upon. The Court of Appeals, instead of cutting away, preserved the right of the Government to institute the proper action for reversion, in virtue of the following pronouncement in its resolution of March 9, 1949:

"Besides, it is believed that the administrative officials entrusted with the enforcement and application of the Public Land Act should be granted discretion to determine whether to enforce reversion to the Government or not. The law grants them authority to do so by actions to be instituted by the Attorney General under section 99 of Act No. 2874. A certain amount of discretion should be vested with the administrative officials to determine the propriety of instituting said action. Furthermore, there must be well defined policies on the matters of reversion of which this Court may not be aware and which were not inquired into in this case. For all these reasons the Court is of the belief that it should not motu proprio, decree the reversion, but that such reversion should be left to the discretion of the administrative officials concerned," (46 Off. Gaz., pp. 6156-57.)

Neither can our decision in G. R. No. L-5432 be conclusive against the Government which, by the way, was not a party in CA-G. R. No. 2098-R, because, as already pointed out, we merely believed that the question of reversion could well be ventilated in Special Proceeding No. 840.

In view of the situation revealed by this case, which probably may be typical of many others, it has occurred to the mind of the Court to suggest that legislative action be taken with a view to enhancing the rights of homesteaders so as to correspondingly minimize the possibilities or effects of reversion, or with a view to granting the homesteader a priority or preference in case his homestead, already reverted, should again be made available and open for acquisition by private persons.

Wherefore, the appealed decision is affirmed, and it is so ordered, without costs.

Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J.B.L., JJ., concur.

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