

JACINTO TIANGCO AND JOSE LAZARO, PETITIONERS VS. FAUSTINA LAUCHANG, RESPONDENT. ASUNCION TIZON, PETITIONER VS. FAUSTINA LAUCHANG, RESPONDENT.

G.R. Nos. L-17598 and 17694. September 30, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

These are petitions for a writ of certiorari filed on 18 October 1960 and 7 November 1960 to review an amended judgment rendered on 30 January 1960 by the Court of Appeals (CA-G.R. No. 8114-R; Annex E-I) holding that Faustina Lauchang is entitled to acquire by purchase the whole of Lot No. 10, Block 2, of the Tambobong Estate. As the judgment sought to be reviewed deals with or includes petitioners in both cases but docketed separately, this Court will render an opinion and judgment on both. In this Court the petitioners in G.R. No. L-17598 assign two errors claimed to have been committed by the Court of Appeals, to wit:

- (1) In applying¹ the order of succession established in *Santiago vs. Cruz* (98 Phil., 168), promulgated December 29, 1955, and in not finding that in the instant case there are good and compelling reasons to depart from said order of succession; and
- (2) In not declaring the appellants herein as having the preferential right to buy the portions they respectfully have been occupying and still do occupy for twenty (20) years, in the least, and thus in revoking by its second decision (Annex E to petition) the grant it made in its first decision in favor of herein petitioners.

The petitioner in G.R. No. L-17694 assigns the following errors allegedly committed by the Court of Appeals:

- I. The Honorable Court of Appeals erred in rigidly and strictly applying to the instant case the order of preference enumerated in the cases of *Fernando Santiago, et al., vs. Realeza Cruz, et al., supra*.
- II. The Hon. Court of Appeals erred in not holding that the order of preference, if ever there is such an order of preference, appearing in Section 1 of Commonwealth Act No. 539, is not mandatory but merely presuasive and directory, add in not applying the doctrine laid down in the cases of *Olimpio Gutierrez vs. Miguel Santos, et al., 107 Phil., 419* and *Pascual, et al., vs. Lucas, 51 Off. Gaz. Nos. 5, 2429*.
- III. The Honorable Court of Appeals erred in not holding that herein petitioner has preferential right to buy that 82 square meters lot because of compelling reason.
- IV. The Honorable Court of Appeals erred in not applying the Supreme Court decision in the cases of *Marukot vs. Jaeinto, et al., 98 Phil., 123*.
- V. The Honorable Court of Appeals erred in not applying the doctrine of exhaustion of administrative remedies.

The findings of the Court of Appeals are, as follows:

"It appears that Lot No. 10, Block No. 2 of the Tambobong Estate in the Municipality of Malabon, Province of

Rizal, Philippine Islands, was formerly leased by the Archbishop of Manila to one Matea Suarez. The lot contains an aggregate area of 480 meters.

On September 11, 1906, Matea Suarez sold her leasehold interest in the land for the sum of P200.00 to Anacleto Lauchang, father of the plaintiff-appellee and appellant Faustina Lauchang. When Anacleto died in 1923, his daughter, the plaintiff, took over and since then has been occupying said property paying rents therefor to the Roman Catholic Archbishop of Manila up to August 31, 1927 when further payment of rents was suspended because the Archbishop of Manila sold the Tambobong Estate to the Government of the Commonwealth of the Philippines.

The evidence further shows that Asuncion Hizon had been occupying 82 square meters of the lot in question in the north-western portion since 1929; Jaeinto Tiangco, 91 square meters in the southwestern portion since 1938; and Jose Lazaro, 113 square meters in the northeastern portion since 1940. Plaintiff appellee and appellant is occupying the southwestern part of the lot containing an area of 194 square meters. All of the claimants-occupants have their respective houses on the lot in question.

We entertain no doubt that Asuncion Hizon is a sub-lessee of Faustina Lauchang, the plaintiff (Exhs. D-2 and D-3). The finding of the trial court in this regard is correct.

With respect to Jacinto, the evidence shows that at first he used to pay Faustina Lauchang P1.00 per month until he connected plaintiff's water pipe with his main water pipe in the middle of the year 1938. Since then Tiangco has not been paying any rental to the plaintiff.

As to Jose Lazaro, his testimony is to the effect that he had been occupying the portion of 113 square meters upon an annual rent of P12.00.

We cannot give credence to plaintiff's testimony that she merely tolerated the stay of Hizon, Tiangco and Lazaro out of charity for she is not in a position so to act. We conclude that all of the three are sub-lessees of the plaintiff Faustina Lauchang. Now, under the law do the parties before us have preferential rights to purchase the portion which they respectively occupy?

* * *

* * * Subsequent study has revealed that both awards are violative of the legislative intent and the decision of our Honorable Court in the case of Fernando Santiago, et al., vs. Realeza Cruz, et al., G.R. Nos. L-8271-8272, promulgated on December 29, 1955, which case is on all fours with the instant case.

* * *

And, in the case of Santiago, et al., vs. Realeza Cruz, et al., supra, our Hon. Supreme Court said:

"The lots herein litigated are portions of the Tambobong Estate situated in the municipality of Malabon, province of Rizal. They were originally leased to Mrs. Elisa E. Cayco up to January 14, 1944 when, for valuable consideration, she sold her leasehold rights over the lots to Realeza Cruz. Prior to this transfer Fernando Santiago already had his house erected on a portion of Lot No. 1, Block No. 19, while Francisco Samonte had his house erected on another portion of Lot 19, Block No. 16, and both were sub-lessees of Mrs. Cayco to whom they had been paying nominal rentals. After the transfer, both sub-lessees kept on paying the rentals to Realeza Cruz, except Fernando Santiago who stopped paying when the Government acquired the Tambobong Estate.

* * *

The next question to be determined refers to the preference that should be observed in the allocation of the lots in dispute among their different claimants which constitutes the root cause of the present controversy. In approaching this problem the first thing to be considered is the meaning and scope of the law which governs

the administration and disposition of the Tambobong Estate in favor of those whom the law contemplates to extend its beneficent provisions. This law is Commonwealth Act No. 539. Section 1 of this Act provides that the home lots into which the lands acquired thereunder are to be subdivided to promote its objective shall be resold at reasonable prices and under such terms and conditions as may be fixed 'to their bona fide tenants or occupants or private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines. An analysis of this provision would at once reveal that the intendment of the law is to award the lots to those who may apply in the order mentioned. This enumeration denotes the preferential rights the law wishes to accord to them. Thus, the first choice is given to the bona fide 'tenants', the second to the 'occupants' and the last to 'private individuals'. And this enumeration undoubtedly has been adopted considering the existing social problem and the different situations in which the claimants may be found. This is the order of preference followed by the Director of Lands in awarding the lots to appellant whose status as a bona fide tenant is not disputed, and since this action is in accordance with the intendment and purpose of the law, we see no plausible reason for disturbing it as we are now urged by the appellees.

The foregoing interpretation is further justified by a comparison of the provisions of Commonwealth Act No. 539, under which the Tambobong Estate was acquired, with those of Commonwealth Act No. 20, which provided for the resale of home sites acquired thereunder at the time of the approval of the former Act. Note that while under Commonwealth Act No. 20 the home lots are to be resold only to bona fide occupants, the Act that had superseded it, Commonwealth Act No. 539, modified this provision by providing three groups of persons who may purchase the lots is indicative of the clear intent of Congress with regard to the preferential rights to be accorded to tenants, occupants and private individuals." (Italic supplied.)

* * *

IN VIEW OF ALL THE FOREGOING, we find ourselves constrained to modify the decision appealed from by (1) declaring plaintiff-appellee and appellant Faustina Lauchang to have the preferential right to buy the whole of Lot No. 10 of Black No. 2 of the Tambobong Estate and (2) ordering the Division of Landed Estates of the Bureau of Lands, successor of the Rural Progress Administration which was abolished by Executive Order No. 376, the Land Tenure Administration, or the agency or instrumentality of the Government concerned to sell said lot to her."

The question raised by the parties was correctly decided by the Court of Appeals in its amended decision or judgment sought to be reviewed wherein the pertinent parts of the opinion of this Court rendered in Santiago, et al., vs. Cruz, et al., supra are quoted.

The proposition advanced by the petitioners that this Court should depart from the strict application of the order of preference laid down in the cases decided by it can not be sustained, because unlike in this case where the respondent owns no other realty except an inchoate right over the lot in litigation, in the case of Gutierrez vs. Santos, supra the lessee had four (4) lots the total area of which was 3,279 square meters, aside from the then litigated lot, which was more than sufficient to answer for the needs of the lessee and his family. Furthermore, the 480 square meters lot being inadequate for the needs of an already growing family of the respondent (consisting of 7 children all of age and 7 grandchildren), petitioners Lazaro and Tiangco bought or became co-owners of lots in Malabon, Rizal, as evidenced by TCT No. 58148 and 61615, issued by the Register of Deeds in and for the province of Rizal.

The contention of the petitioners that the action brought in the Court of First Instance of Rizal (Civil Case No. 911) should have been dismissed for lack of cause of action, in view of respondent's failure to exhaust all administrative remedies is untenable. It is well to recall that the lot, subject of the litigation, is not a part of the public domain, but of private ownership acquired by the Government for resale to private persons, and for that reason any aggrieved party may bring an action in court without the need of exhausting all administrative remedies.[1]

The amended decision or judgment under review is affirmed, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Santiago, et al. vs. Cruz, et al., 98 Phil. 168.

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