

**IN RE: PETITION TO CANCEL ENCUMBRANCE ANNOTATED ON
TRANSFER CERTIFICATE OF TITLE NO. 143917 OF THE REGISTRY OF
DEEDS OF RIZAL. ALEJANDRO DE GUZMAN, PETITIONER-APPELLEE,
VS. LAND...**

G.R. No. L-29014. September 15, 1986

Ponente: FERNAN, J.

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FERNAN, J.:

Alejandro de Guzman is the registered owner of a 70-square-meter parcel of land situated in the Tambobong Estate in Malabon, Rizal, under Transfer Certificate of Title No. 143917 of the Registry of Deeds of Rizal.

Originally entered under the memorandum of encumbrances at the back of Transfer Certificate of Title Nos. 42646 and carried over to Transfer Certificate of Title No. 143917, is the following:

"ENTRY No. 15439/T? No. 42646 - CONDITIONS OF THE PROPERTY: 1. That it shall not be sold, assigned, encumbered, mortgaged or transferred, within the period of five [5] years from the date hereof without first obtaining the written consent of the Chairman, Land Tenure Administration; 2. That except by hereditary succession, it shall not be conveyed, transferred or assigned in favor of any person who is not landless and disqualified to acquire or own land in the Philippines; 3. That violation of either of the next two preceding conditions shall be sufficient ground for the Chairman, land Tenure Administration his duly authorized representative to take such action as may be necessary for the reversion of the land to the government. [Doc. No. 40, Page 9, Book 1, Series of 1956 of Notary Public of Manila, Marcelo Lagramada] Date of Instrument - Jan. 16, 1956 - Date of Inscription - Feb. 4, 1956 - 9:22 a.m."

On March 27, 1967, De Guzman filed in the Court of First Instance of Rizal, a petition to cancel conditions Nos. 1, 2 and 3 of the aforementioned entry on the ground that more than five years had elapsed since the annotation of said encumbrance.

The Land Authority, the government entity then tasked with the administration and disposition of landed estates acquired by the government for distribution to the landless, opposed that petition. It maintained that while condition No. 1 may be cancelled because the five-year period therein mentioned had elapsed, the two other conditions carry no prescriptive period at all and therefore, they should not be cancelled as they are perpetual in character. It quoted Land Administrative Order No. R-3 [Rules and Regulations Governing the Acquisition and Disposition of Landed Estates] on which the aforesaid conditions are based, to wit:

"16. Prohibition to Alienate. - The applicant shall not sell, assign, encumber, mortgage, or transfer, his rights under the agreement to sell or in the property subject thereof without first obtaining the written consent of the Secretary of Agriculture and Natural Resources and this condition shall subsist until the lapse of five [5] years from the date the execution of the final deed sale in favor and shall be annotated as an encumbrance on the certificate of title of the property that may be issued in his favor.

"17. Conveyance of Lands, Covered by Final Deeds of Sale. - Except by hereditary succession, no lands

acquired hereunder shall be transferred or assigned to any individual unless he be landless and not otherwise disqualified from acquiring and owning lands in the Philippines. This prohibition shall be made a condition in all deeds sale and shall be annotated as encumbrance in the certificate of title.

"18. Violation of the two preceding paragraphs; Its effect. - Any sale, assignment, encumbrance, mortgage, or transfer made in violation of the provisions of the next two preceding paragraphs hereof is null and void, and shall be sufficient ground for the Secretary of Agriculture and Natural Resources to cancel the deed sale and to order the reversion the land to the government and the forfeiture whatever payments made on account thereof. In case however, a deed of sale has already been issued, the violation of the said provisions shall be sufficient ground for the Secretary of Agriculture and Natural Resources to take appropriate action in court with a view to obtaining the reversion of the land involved to the government. All lands reverted to the government shall be disposed as vacant lot."

After hearing and the presentation of evidence by both the petitioner and the oppositor, the lower court issued an order dated July 17, 1967 granting the petition and ordering the Register of Deeds of Rizal to effect the cancellation of the aforequoted encumbrance.

The lower court stated that conditions Nos. 2 and 3 should be read in connection with condition No.1. It added that conditions Nos. 2 and 3 are "not meant to place a perpetual limitation to the right of owner-ship of the buyer of the land covered by Transfer Cer-tificate of Title No. 143917, but to place a limita-tion thereon for five years only."

The Land Authority filed a motion for reconsideration of that order. It was opposed by De Guzman. On November 11, 1967, the lower court denied that motion.

The Land Authority interposed this appeal. It argued in its brief that conditions Nos. 2 and 3 are mere restrictions intended to safeguard the "Land for the Landless" policy of the state which is a valid exercise of its regulatory powers on the right of ownership.

On the other hand, De Guzman contended that the Land Authority's argument is tantamount to a disregard of property rights and the Constitutional guarantee of the freedom to contract inasmuch as the res-trictions in conditions Nos. 2 and 3 are unreasonable, arbitrary and capricious.

This Court had on at least two occasions, ruled on the same issue as the one involved in this case: the legality of the lower court's order to cancel the aforementioned encumbrance or "conditions".

In *De Gallego vs. land Authority*, L-26848, August 17, 1981, 106 SCRA 598, 605-606, this Court said:

"It is pertinent to state here that pursuant to the provisions of Section 4, Article XIII of the 1935 Constitution of the Philippines which mandated that Congress may authorize, upon payment of just compensation, the expropriation land to be subdivided into small lots and conveyed at cost to individuals, Commonwealth Act 539 enacted May 26, 1940, authorized the President of the Philippines to acquire private lands or any interest therein, thru purchase or expropriation and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their bonafide tenants or occupants or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines [Section 1, Commonwealth Act 539]. And under Section 2 of the same Act, the President may designate any department, bureau, office, or instrumentality of the National Government, or he may organize a new agency to way out the objectives of the Act, and for this purpose, the agency so created or designated shall be considered a public corporation. Commonwealth Act 539 amended Commonwealth Act No. 20, as amended by Commonwealth Act 260, and Commonwealth Act 378, as amended by Commonwealth Act 420.

"As indicated earlier, Sections 16, 17 and 18 of Lands Administrative order No. R-3 dated October 19, 1951 are the sources which gave rise to the annotation of Conditions Nos. 1, 2 and 3 on the title of subject property.

The said Order was published in the Official Gazette of December, 1951, pp. 6075 to 6078, Volume 47, No. 12, and has the force and effect of law [Javillonar vs. Land Tenure Administration, G.R. No. 10303, Aug. 22, 1958, 104 Phil. 323].

"As the Administrative Order itself provides, the rules and regulations governing the acquisition and disposition private estates were promulgated for the information and guidance of all concerned '[p]ursuant to the provisions section 4, article XIII of the Constitution of the Philippines, section 79[B] of the Revised Administrative Code, and Executive Order No. 376, dated November 28, 1950'.

"Conditions No. 2 and 3, having been imposed pursuant to an Administrative order which has the force and effect of the law, are therefore binding upon any person who acquires title to the same, it appearing that said Conditions are annotated as encumbrances on the back of the Certificate of Title of the land. Moreover, the said conditions are not contrary to law, morals, customs, or public policy. In fact, these Conditions had been imposed in order to implement more effectively the main purpose of the constitutional provisions which is to break up landed estates into reasonably portions and to discourage the concentration of excessive landed wealth in an entity or a few individuals [Republic vs. Baylosis, 96 Phil. 461].

"xxx xxx xxx

That opinion was reiterated by this Court through Justice Vicente Abad Santos in Republic vs. Siochi, L-38891, July 31, 1984, 131 SCRA 39. We do not see any reason for deviating from those decisions.

WHEREFORE, insofar as it orders the cancellation of conditions Nos. 2 and 3, the order of the lower court is hereby reversed and set aside. Costs against petitioner-appellee.

SO ORDERED.

Feria, (Chairman), Alampay, Gutierrez, Jr., and Paras, JJ., concur.

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