

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. SANTIAGO O. TAÑADA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, BRANCH V, AND SPOUSES JACINTO K. RAFANAN AND VICENTA L. RA...

G.R. No. L-34199. May 30, 1983

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

By petition for review on certiorari We are asked to reverse a decision of the defunct Court of First Instance of Cebu in Civil Case No. 10630.

In Civil Case No. 10630, the Republic of the Philippines sought the reversion of two parcels of land from the spouses Jacinto and Vicenta Rafanan. After issues had been joined for trial and judgment, the parties submitted a stipulation of facts which reads as follows:

"Come now the parties, assisted by their respective counsels, and to this Honorable Court most respectfully submit the following stipulation of facts:

- That the parties admit the capacity, personality, identity and residence of each one of them;
- That the parties likewise admit the identity of the two parcels of land involved in this case, the description of which are as follows:

'A parcel of land (Lot No. 2745 of the Cadastral Survey of Cebu, L.R.C. Cad. Record No. 9467), situated in the City of Cebu, Island of Cebu, [technical description follows]; containing an area of EIGHT THOUSAND EIGHT HUNDRED FIFTY (8,850) SQUARE METERS. . . '

'A parcel of land (lot 2740 of the Cad. Survey of Cebu, L.R.C. Cad. Record No. 9467), situated in the City of Cebu, [technical description follows]; containing an area of THREE THOUSAND NINE HUNDRED SEVENTY FIVE (3,975) SQUARE METERS. . . '

- That the plaintiff was the original owner of the two (2) parcels of land above described together with all buildings and improvements thereon, covered by Transfer Certificate of Title No. 20800 and Transfer Certificate of Title No. 20801, respectively, both issued by the Register of Deeds of Cebu City, free from all liens and encumbrances, having acquired the said parcels of land from the United States Government to which these parcels of land were vested under the Philippine Property Act of 1946, the same being former enemy (Japanese) owned lands. Certified copies of Transfer Certificates of Titles Nos. 20800 and 20801 are hereto attached and made integral part hereof as Annexes "A" and "A-1".

- That on or about January 28, 1959, the plaintiff, acting through the Board of Liquidators, a government agency created under Executive Order No. 372, series of 1950, through its Acting Chairman and Manager Filomeno C. Kintanar, thereunto duly authorized by its Resolution No. 726, series of 1958, sold the above described parcels of

land together with all improvements existing thereon, to DELFIN N. LOPEZ, of legal age, single, Filipino and resident of Mambaling, Cebu City, (now deceased), for and in consideration of the sum of TWELVE THOUSAND EIGHT HUNDRED TWENTY FIVE (P12,825.00) PESOS, Philippine Currency. A certified true copy of the deed of absolute sale embodying the foregoing is hereto attached and made integral part hereof as Annex "B".

- That on December 29, 1959, Delfin N. Lopez sold the said parcels of land to MARIANO HO, SR., of legal age, Filipino, married to Josefina Tan Cheng and resident of Cebu City, for and in consideration of the sum of TWENTY-ONE THOUSAND EIGHT HUNDRED TWO and FIFTY CENTAVOS (P21,802.50) PESOS, Philippine Currency. A certified true copy of the deed of absolute sale embodying the foregoing is hereto attached and made integral part hereof as Annex "C". Pursuant to the said deed of absolute sale, the Register of Deeds of Cebu City issued Transfer Certificates of Title Nos. 20984 and 20985, respectively, in the name of MARIANO HO., SR., Filipino, a legal age, married to Josefina Tan Cheng, with residence and postal address at Cebu City, Philippines. Certified copies of the Transfer Certificates of Title Nos. 20984 and 20985 are hereto attached and made integral part hereof as Annexes "C-1" and "C-2."

- That, on July 15, 1962, Mariano Ho and Josefina Tan Cheng sold the above described two parcels of land, together with all improvements existing thereon, to the spouses JACINTO K. RAFANAN and VICENTA L. RAFANAN, both of legal age, Filipinos, and residents of Cebu City, for and in consideration of the sum of TWENTY SIX THOUSAND (P26,000.00) PESOS, Philippine currency. A certified true copy of the deed of absolute sale embodying the foregoing is hereto attached and made integral part hereof as Annex "D". Pursuant to such deed of absolute sale, the Register of Deeds of Cebu City issued Transfer Certificates of Title Nos. 25490 and 25491, respectively, certified true copies of which being hereto attached and made integral part hereof as Annexes "D-1" and "D-2".

WHEREFORE, it is respectfully prayed that the foregoing stipulation of facts be approved and that judgment be rendered on the basis thereof.

The parties further pray that they be granted thirty (30) days from approval hereof to file their respective memoranda simultaneously.

Cebu City, December 7, 1970."

The parties prayed that the stipulation of facts be approved and that the case be considered submitted for decision without further trial and presentation of evidence, oral or documentary. The court granted the prayer and rendered a decision dismissing the complaint.

One of the grounds invoked for the reversion of the lands to the petitioner is stated in the complaint as follows:

"7. Considering that the sale executed by plaintiff's Board of Liquidators of the above described realty to DELFIN N. LOPEZ was subject to the approval of the President of the Philippines, and to other conditions and limitations imposed by law, which the defendants are conclusively presumed to know, and since no such approval was given, the sale was a total nullity . . ." (Rollo, pp. 27-28.)

The same ground is invoked in the petition in the following words:

"In the case at bar, the deed of sale executed by the Republic of the Philippines, represented by the Board of Liquidators as vendor in favor of Delfin N. Lopez, of legal age, single, Filipino with residence at Mambaling, Cebu City, of the two(2) parcels of land owned by the government, which it acquired from the United States Government under the Philippine Property Act of 1946, was executed by Filomeno C. Kintanar, Acting Chairman and Manager of the Board of Liquidators, pursuant to Resolution No. 726, series of 1958 of

aforesaid Board. The said deed of sale was not signed or even approved by the President of the Philippines as required by law, which approval should appear in the same deed of sale." (Rollo, pp. 14-15.)

The stipulation of facts is silent as to whether or not the President of the Philippines approved the sale of the two lots to Delfin N. Lopez. Nonetheless, the petitioner insists that there was no approval. It calls attention to the fact that the deed of sale which is attached to the stipulation of facts and marked as Annex B "was not signed or even approved by the President of the Philippines as required by law, which approval should appear in the same deed of sale." (Brief, p. 9.) An examination of the copy of the deed of sale which is attached as Annex A to the petition and which forms pages 29 and 30 of the Rollo of this case confirms the factual claim of the petitioner - that the sale of the two lots to Delfin N. Lopez did not have the approval of the President of the Philippines.

The private respondents invoke three legal presumptions in rebuttal, namely: "(a) that official duty has been regularly performed (Sec. 5 [M], Rule 131, new Rules of Court); (b) that the ordinary course of business has been followed (Sec. 5, [q], Rule 131, new Rules of Court; and (c) that the law has been obeyed (Sec. 5 [ff], Rule 131, new Rules of Court)." (Brief, p. 9.) But these presumptions are unavailing to the private respondents for as shall be shown below the approval of the President of the Philippines to the sale is a positive requirement which cannot be presumed; it must be shown affirmatively.

It should be recalled that the two lots were former enemy properties. They were transferred to the Republic of the Philippines and by virtue of R.A. No. 477 their disposition was entrusted to the National Abaca and Other Fibers Corporation (NAFCO). The corporation was abolished by Executive Order No. 372, series of 1950, and its functions, particularly as provided in R.A. No. 477 were transferred to the Board of Liquidators which was created by the same executive order.

Section 4 of Executive Order No. 372, series of 1950, provides: "The Board of Liquidators shall, with the approval of the President of the Philippines, and subject to the provisions of existing law, sell lease, transfer, assign, or otherwise dispose of, the properties, funds, other assets, development projects, demonstration plantations, experimental stations, and nurseries of the corporations herein abolished; . . ."

The private respondents assert: "[E]ven granting that the sale of the land by the Board of Liquidators to Delfin N. Lopez lacked the required presidential approval, the deficiency does not invalidate the sale of the land. For the requirement of presidential approval is not contained in any law but merely by Executive Order No. 372. Failure to follow this executive order may only subject the proper officials to disciplinary action but may not cause the nullity of the transaction. Presidential approval of such sale is not essential to the validity of the contract." (Brief, p. 13.) Assuming without conceding the correctness of the assertion, it is nonetheless unavailing because as pointed, out by the petitioner: "Sections 79 (F) and 567 of the Revised Administrative Code require that the deed of sale be signed personally by the President of the Philippines or by an official duly designated by him, unless the authority therefore be expressly vested by law in another officer. The deed of sale herein involved (Annex "A" of Annex "B") does not show that the deed was approved or signed by the President of the Philippines or another official authorized by law. Considering the failure to comply with the statutory requirements, the deed of sale is ineffective and thus wholly void." (Brief, p. 9.)

Section 8 of R.A. No. 477 provides:

"Sec. 8. Except in favor, of the Government or any of its branches, units, or institutions, and of any church, sect or denomination for its church and/or cemetery site, land acquired under the provisions of this Act or any permanent improvements hereon shall not be subject to encumbrance or alienation from the date of the award of the land or the improvements thereon and for a term of ten years from and after the date of issuance of the certificate of title, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of such period.

"Any occupant or applicant of lands under this Act who transfer whatever rights he has acquired on said lands and/or improvements thereon before the date of the award or signature of the contract of sale, shall not be entitled to apply for another piece of agricultural land or urban, home site or residential lot, as the case may be, from the National Abaca and Other Fibers Corporation; and such transfer shall be considered null and void." (Underlined words are amendments introduced by R.A. No. 4370, Sec. 1, approved June 19, 1965.)

The petitioner also anchors its prayer for reversion on the ground that Delfin N. Lopez sold the two lots to Mariano Ho in violation of Section 8 of R.A. No. 477. The complaint recites: ". . . but even if the sale were considered as valid, the subsequent alienation of the subject realty within the prohibited ten-year period to MARIANO HO and the latter's simulated transfer thereof to the defendants spouses are void ab initio; consequently, none of the transferees, namely, DELFIN N. LOPEZ, MARIANO HO, and the defendants spouses JACINTO K. RAFANAN and VICENTA L. RAFANAN acquired a valid title over the said realty. By operation of law, the violation aforesaid are sufficient to cause the reversion of the above described realty to the State." (Rollo, p. 28.)

The private respondents seek to neutralize the petitioner's assertion by pointing to the case of *Ras vs. Sua*, L-23302, September 25, 1968, 25 SCRA 153.

In *Ras vs. Sua*, the plaintiff leased a parcel of land which he had acquired from NAFCO unaware of but in violation of R.A. No. 477. He filed a complaint to recover possession of the land alleging breaches of contract. Two of the defenses interposed by Sua were that Ras had no personality to bring the action, the proper party being the Republic of the Philippines and that the jurisdiction to order the return to the plaintiff of the land belongs, not to the courts, but to the Board of Liquidators. On these points, this Court held:

"The above contentions are without merit; they being premised on the assumption that upon the plaintiff's violation of Republic Act 477 he automatically loses his rights over the land and said rights immediately revert to the State. That is not correct.

"In the first place, it is worthwhile to note that, unlike in a transfer of the applicant's rights made before the award or signing of the contract of sale, which is specifically declared null and void and disqualifies such applicant from further acquiring any land from the NAFCO, Republic Act 477 is silent as to the consequence of the alienation or encumbering of the land after the execution of the contract of sale, but within 10 years from the issuance of the corresponding certificate of title. Considering that the aim of the government in allowing the distribution or sale of disposable public lands to deserving applicants is to enable the landless citizens to own the land they could work on, and the reversion of these lands to the government is penal in character, reversion cannot be construed to be implied from the provision making certain acts prohibited. Where, as in this case, the interest of the individual outweighs the interest of the public, strict construction of a penal provision is justified. Article 1416 of the Civil Code of the Philippines prescribes as follows:

'Art. 1416. When the agreement is not illegal per se but is merely prohibited, and the prohibition by the law is designed for the protection of the plaintiff, he may, if public policy is thereby enhanced, recover what he has paid or delivered.'

"Secondly, under Section 9 of Republic Act No. 477, the disposition of lands by the NAFCO is to be governed by the Public Land Act (C.A. 141); and it has been ruled, in connection with the same, that a disregard or violation of the conditions of the land grant does not produce automatic reversion of the property to the State, nor work to defeat the grantee's right to recover the property he had previously disposed of or encumbered. This was made clear by this Court when it said:

'. . . Similar contentions were made in the case of *Catalina de los Santos vs. Roman Catholic Church of Midsayap, et al.*, 94 Phil. 405, 50 Off. Gaz. 1588, but they were there overruled, this Court holding that the pari

delicto doctrine may not be invoked in a case of this kind since it would turn counter to an avowed fundamental policy of the State that the forfeiture of the homestead is a matter between the State and the grantee or his heirs, and that until the State has taken steps to annul the grant and asserts title to the homestead, the purchaser is, as against the vendor or his heirs, 'no more entitled to keep the land than any intruder.' (Acierto vs. De los Santos, 95 Phil. 887.)'

Clearly, until and unless an appropriate proceeding for reversion is instituted by the State, and its reacquisition of the ownership and possession of the land decreed by a competent court, the grantee can not be said to have been divested of whatever right that he may have over the same property." (At pp. 159-160.)

The Ras case indeed holds that violation of R.A. No. 477 does not automatically revert the land to the State but it likewise holds that the State can institute appropriate proceeding for reversion and its reacquisition of the ownership and possession of the land decreed by a competent court which is precisely what the petitioner has done in this case.

To summarize: The conveyance of the two lots to Lopez was void for lack of presidential approval; the conveyance of the same lots to Ho by Lopez was likewise void not only because Lopez had nothing to convey but also because the conveyance was made within the prohibited period; and the conveyance to the Rafanan spouses by Ho was void for the same reasons.

WHEREFORE, the petition is hereby granted; the judgment in Civil Case No. 10630 is set aside and another one is entered commanding the Register of Deeds of Cebu to cancel Transfer Certificate of Title Nos. 25490 and 25491 which were issued to the private respondents and in lieu thereof to issue new ones in the name of the Republic of the Philippines. No costs.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion Jr., Guerrero and Escolin, JJ., concur.
De Castro, J., no part.

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