

IGNACIO ARNIDO, PLAINTIFF AND APPELLEE, VS. ALFONSO FRANCISOO, DEFENDANT AND APPELLANT.*G.R. No. L-6764. June 30, 1954*

Ponente: LABRADOR, J.

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This is an action to recover the title to and possession of a certain parcel of land in the barrio of Kabangkalan, Placer, Masbate, designated as lot 1 in sketch plan attached to Exhibit A, together with damages. The case was presented for decision upon an agreed statement of facts, the most pertinent of which are as follows: The land forms part of the homestead application of one Albaro Vergara, H. A. No. 123545, which was presented in July, 1926 (Exhibit A). The application was approved on June 2, 1931, and given Entry No. 83952. On October 17, 1941, Albaro Vergara sold the land applied for to defendant Alfonso Francisco for P800 (Exhibit C), and on August 10, 1948, Vergara assigned, his homestead rights thereto (Exhibit B), and after proper investigation and report by a lands officer (Exhibits E and E-1), the assignment was recommended for approval. Thereupon, Alfonso Francisco filed his own homestead application for the land (Exhibit D).

It also appears from the agreed statement of facts that in an action of forcible entry and detainer filed by Arnido against Vergara, which was appealed to the Court of First Instance, it was found by that court that on July 13, 1939, one Joaquin Ferrer sold a land eleven hectares in area to Arnido, and in the same deed of sale, Vergara sold the coconuts and bamboos on the land purchased; that the land had been the object of controversy between the said Ferrer and Vergara before the Bureau of Lands, and that the latter had adjudicated it to Vergara; that Ferrer could not have sold the land, because it was not his, and that Vergara had a better right thereto. The court absolved the defendant from the action (Exhibit F).

It further appears that in September, 1940, Arnido presented an action to recover the title to the property against Albaro Vergara, Civil Case No. 989-R (Exhibit G). The records of the case were destroyed during the last war, and after its reconstitution in November, 1948, Vergara recognized Arnido's title to the property in a compromise (Exhibit H-1), as a result of which judgment was entered in favor of Arnido (Exhibit H). The agreed statement is to the effect that the lands officer who investigated the transfer of homestead rights in favor of Francisco was not aware of this case or of the compromise and judgment. The judgment entered upon the compromise is dated November 27, 1948, and was executed by the sheriff, but defendant herein refused to deliver the property to plaintiff (Exhibits I and I-1).

The trial court held that the land is private land, solely on the alleged ground that it was improved. The alleged improvements consist of some 15 to 35-year old coconut trees and bananas existing thereon even before Vergara applied for it as homestead in the year 1926, but which are admitted to belong to Vergara. Some of the trees must have been planted on the land before Vergara applied for it in 1926. No evidence, however, has been presented that the land was owned by any one prior to Vergara's occupation. But mere occupation of public land and the planting thereon of improvements do not convert it into private land. The mere fact that Vergara applied for it as homestead shows that he occupied it as public land. His admission in the compromise agreement that it belonged

to Arnido, which is contrary to his conduct in applying for the land as homestead, is no evidence that the land is private land. The agreed statement also expressly concedes that it is part of H. A. No. 123545. The conclusion of the trial court that it is private land is, therefore, without any foundation in law or fact. We find that the land is not private but public land, and as such it is subject to acquisition in accordance with the public land law.

The other conclusions of the trial court, especially those based on its findings that the land in question is private land are also incorrect. The judgment in Civil Case No. 989-R, based on an admission contained in a compromise agreement between the parties dated November 27, 1948, can not bind the defendant Francisco, who was not a party to the action. When Vergara made the compromise, he was no longer in possession of the land, as he had sold his; rights thereto to Francisco in October, 1941, and executed the deed of assignment of his homestead rights in favor of Alfonso Francisco also on August 10, 1948 (Exhibits C: and B); all his acts prejudicial to Francisco's rights can not be binding or effective against the latter. Francisco's purchase of Vergara's rights can not be said to be fraudulent. There is no evidence to prove bad faith, and good faith is presumed.

It is unnecessary to consider the other conclusions of the trial court, such as the applicability of article 1473 of the Spanish Civil Code and the fraudulent acts of Francisco's transferor, as these are not material to the decision of the case. If Vergara has been guilty of fraud perpetrated on, Arnido, let him be made to account therefor to the latter, but in no case may Francisco, a third party, be made to suffer from the effects of his double-dealing.

The judgment entered in the case is hereby reversed, and the action dismissed, and the defendant-appellant Alfonso Francisco absolved from the complaint, with costs against the plaintiff-appellee.

Pards, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo and Concepcion, JJ., concur.

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