

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE MINISTRY OF AGRARIAN REFORM, PETITIONER, VS. CARMINIA SIOCHI, REPRESENTED BY HER ATTORNEY-IN-FACT, ANDRES E. SIOCHI, JR., RESPON...

G.R. No. L-38891. July 31, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition to review the Order of the defunct Court of First Instance of Rizal in LRC Case No. C-1459. Carminia Siochi is the registered owner of a piece of land situated in Malabon, Rizal, covered by Transfer Certificate of Title No. 212043 of the Registry of Deeds for Rizal. The land was formerly a part of the Tambobong Estate which was acquired by the government in 1947 pursuant to Commonwealth Act No. 539. The law authorized the President of the Philippines to subdivide the estate into home lots "for resale at reasonable prices and under such conditions as he may fix." (Sec. 1.)

Siochi's transfer certificate of title contains the following restrictions:

- "1. That it shall not be sold, assigned, encumbered, mortgaged or transferred within the period of five (5) years from the date hereof with-out first obtaining the written consent of the Secretary of Agriculture and Natural Resources;
- "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 paragraphs shall be sufficient ground for the Secretary of Agriculture and Natural Resources or his duly authorized representative to take such action as may be necessary for the reversion of the land to the government."

In a petition dated November 13, 1973, Siochi asked the court a quo to cancel the restrictions "inasmuch as the period of five (5) years has already expired."

The petition was partly opposed by the then Department of Agrarian Reform in representation of the Government of the Philippines; it did not object to the cancellation of restriction No. 1 "for the reason that the period of five (5) years therein stated had already prescribed; it however interposes vigorous opposition to the cancellation of conditions nos. 2 and 3."

The court a quo granted the petition; it ordered the cancellation of the restrictions annotated on TCT No. 212043. In granting the petition, the court said:

"Upon a mature deliberation of the two (2) opposing contentions, the court is inclined to agree with the contentions of the petitioner that the annotations at the back of the title No. 212043 covering Lot No. 16, Block 5, be cancelled. To perpetuate the annotations of encumbrances at the back as the oppositor would like the Court to do would be in effect a restraint of ownership which is in violation of law, particularly Art. 428 of the

Civil Code.

'Art. 428. The owner has the right to enjoy and dispose of a thing without any other limitation than those established by law.'

"If the encumbrance at the back is allowed to be a perpetual provision for the owner to dispose such property, it will be in violation of said article. The Court holds that the limitation embodied in 1, 2 and 3 is only for a period of five (5) years and the five (5) years had elapsed since those encumbrances were annotated on January 10, 1968. The intention of law as envisioned in Commonwealth Act 539, could not have meant a perpetual limitation of right of ownership to a deserving awardee, because if that was the intention, the law would have clearly made it so." (Rollo, pp. 54-55.)

The oppositor has elevated the case to this Court for review in a petition for certiorari filed on August 14, 1974.

To use a favorite expression of Chief Justice Enrique M. Fernando, the petition is highly impressed with merit because in a decision penned by Justice Juvenal K. Guerrero and promulgated as recently as August 17, 1981, in a case on all fours with this one, the Court held:

"Conditions No. (2) and (3) are found or provided in Section 17 and 18 of Land Registration Order No. R-3 under the subject 'Rules and Regulations Governing the Acquisition and Disposition of Landed Estate,' approved November 15, 1951 by the Secretary of Agriculture and Natural Resources. These sections provide as follows:

'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 of the execution of the final deed of sale in his 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 of 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 to 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 of sale and to order the reversion of the land to the government and the forfeiture of 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 of as vacant lot.'

xxx xxx xxx

"Conditions Nos. 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 provision which is to break up landed estates into reasonably small portions and to discourage the concentration of excessive landed wealth in an entity or a few individuals. (Republic vs. Baylosis, 96 Phil. 461) Incidentally, the New Constitution of 1973 provided a modification of the original provision in the 1935 Constitution, thus: "The

National Assembly may authorize, upon payment of just compensation, the expropriation of private lands to be subdivided into small lots and conveyed at cost to deserving citizens." (De Gallego vs. Land Authority, L-26848, August 17, 1981, 106 SCRA 598, 604-606.)

WHEREFORE, the petition is hereby granted; the Order of the court a quo is set aside insofar as it orders the cancellation of restrictions Nos. 2 and 3. Costs against the respondent. SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, Escolin, and Cuevas, JJ., concur.

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