

DAMASO PEÑARA AND JULITA TIMTIMAN, PETITIONERS AND APPELLEES, VS. THE REGISTER OF DEEDS OF RIZAL, RESPONDENT, SOFIA S. BOSTON AND THE HEIRS OF WILLIAM BOSTON, OPPOSITORS AND APP...

G.R. No. L-18976. February 29, 1964

Ponente: LABRADOR, J.

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LABRADOR, J.:

On November 15, 1960 the spouses Damaso Peñara and Julita Timtiman requested the Register of Deeds of Rizal to register a deed of sale of two parcels of land, which deed of sale was executed by Sofia S. Boston on August 25, 1942 of two parcels of land covered by Original Certificate of Title No. 444. This title contains the following "whereas" clause:

"WHEREAS, SOFIA S. BOSTON, of legal age, Filipina, married to William Boston, possessing all the qualifications required by law in the premises, has fully complied with and consummated all the conditions, requirements, and provisions of Chapter VII of Act No. 2874 of the Philippine Legislature, and the Acts supplemental thereto, providing for the granting of free patent to native settlers,***"

The dispositive portion of the "granting" clause is as follows:

"NOW, THEREFORE, KNOW WE, That by authority of the provisions of the Act of Congress of the United States, entitled, 'An Act to declare the purpose of the people of the United States of America as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for these Islands,' approved August 29, 1916, there is hereby granted unto the said SOFIA S. BOSTON the tract of land above described."

And the last paragraph reads:

"TO HAVE AND TO HOLD the said tract of land, with the appurtenances thereunto of right belonging, unto the said SOFIA S. BOSTON and to her heir or heirs and assigns forever. * * * " The petition for the registration of the sale was denied for the reason that although the deed contained the signature of "W. S. Boston", there is no indication that the same is the signature of the husband, and furthermore, the deed does not contain the ratification thereof of the husband.

So, an appeal from the denial was made to the Commissioner of Land Registration, who held that the language or terms of the title indicate that the property was given exclusively to Sofia S. Boston, as it is not shown that at the time of the issuance of the patent William Boston was a native of the Philippines who could qualify for a free patent under the Public Land Act; and that under Article 140 of the New Civil Code the registered owner of the land subject of the sale (a married woman) may freely alienate or encumber the same without the participation of her husband on the sale.

The oppositors to the petition appeal to this Court against the ruling of the Commissioner of Land Registration,

claiming that the property is conjugal property of the spouses Boston because as the title was issued in the name of Sofia S. Boston married to William Boston, it is presumed to be conjugal, having been acquired during marriage.

The title is a free patent which is granted only to occupants for their continued occupation and cultivation. Had the land been acquired by virtue of the joint efforts of husband and wife, the patent should have so stated. But it is granted to the wife only. We presume that as the husband is not joined as co-owner, the land must have been acquired thru the occupation of the wife alone at the time when she was yet unmarried. The land has, therefore, been considered as the wife's exclusive property.

But even admitting that the property is conjugal, because at the time of issuance of the title the wife was already married, the authenticity of the signature of W. S. Boston is not questioned and may therefore, be considered as his true signature. The title declares that the owner is married to William Boston. The person who signed the deed as W. S. Boston, jointly with Sofia S. Boston, must be her husband. His unquestioned signature is proof of his participation in the sale. As the signature's authenticity is not denied, there is no need of a ratification thereof by a notary public.

Wherefore, the ruling of the Commission is hereby affirmed, with costs against oppositors-appellants.

So ordered.

Bengzon, C.J., Bautista Angelo, Concepción, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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