

FRANCISCO SEGOVIA, PETITIONER, VS. PRISCILA GARCIA, ROSARIO GARCIA, AND THE COURT OF APPEALS, RESPONDENTS; FRANCISCO SEGOVIA, PETITIONER, VS. SIMPLICIA VILLAPANDO AND THE COURT ...

G.R. Nos. L-5984 and L-5985. January 28, 1954

Ponente: LABRADOR, J.

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LABRADOR, J.:

In G. R. No. L-5984, respondents Priscila Garcia and Rosario Garcia are the children of Antero Garcia, who died on August 14, 1936. Antero Garcia obtained Homestead Patent No. 8840 to a parcel of land in Unisan, Quezon on February 20, 1926, and Original Certificate of Title No. 1279 therefor on March 17, 1927. Upon the death of Antero Garcia, respondents inherited said land. On June 19, 1944 they sold and conveyed this land to the petitioner Francisco Segovia for P10,000, occupation currency, and by virtue thereof the petitioner now holds Transfer Certificate No. 19396, dated June 23, 1944.

In G. R. No. L-5985, respondent Simplicia Villapando is the widow of Angel F. Villegas, deceased, who died in December, 1944. During his lifetime, Villegas was the owner of a homestead also in Unisan, Quezon, for which he was issued Homestead Patent No. 24518 and Original Certificate of Title No. 4090, dated November 14, 1933 and December 2, 1933, respectively. On June 19, 1944, Villegas sold the homestead to the petitioner Segovia for P10,000, occupation money, and on June 23, 1944 the original certificate of title issued in his name was canceled and Transfer Certificate of Title No. 19384 issued in favor of petitioner Francisco Segovia.

Shortly after liberation, respondents Priscila Garcia and Rosario Garcia in G. R. No. L-5894, and respondent Simplicia Villapando in G. R. No. L-5895, widow of the late Angel Villegas, sought to repurchase from petitioner herein, Francisco Segovia, the parcels of land above mentioned. In both cases, the Court of Appeals held that petitioner has no right to refuse to allow the repurchase in view of the provisions of Section 119 of Commonwealth Act No. 141. Against these decisions, these appeals have been taken by certiorari, and the same have been allowed that the Court may have the opportunity to re-examine the provision of law upon which the judgments are based (Sec.119 of Commonwealth Act No. 141) and the decision of this Court in the case of Isaac, et al., vs. Tan Chuan Leong, et al.[*] G. R. No. L-3324, promulgated on May 23, 1951. The provisions which may have bearing on the question now under consideration are sections 116 and 117 of Act 2874, both in force at the time of the issuance of the homestead patents of the parcels of land subject of the action, which are as follows:

"SEC. 116.—Lands acquired under the free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period; but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations."

"SEC. 117. Every conveyance of land acquired under the free patent or homestead provisions, when proper,

shall be subject to repurchase by the applicant, his widow, or legal heirs, for a period of five years from the date of conveyance."

Section 116 of Act 2874 became Section 118 of Commonwealth Act No. 141, promulgated on November 7, 1936, and was amended on June 8, 1939 by Commonwealth Act No. 456 by the addition of the following paragraph:

"No alienation, transfer or conveyance of any homestead after five years and before twenty five years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Commerce, which approval shall not be denied except on constitutional and legal grounds."

Section 117 of Act 2874 has become Section 119 of Commonwealth Act No. 141.

The first question raised in these appeals concerns the meaning of the term "applicant" used in section 117 of Act 2874, or Section 119 of Commonwealth Act No. 141. Claim is made that said term means one who has applied for a homestead or a free patent, but who has not as yet been granted a patentee. The argument that had the Legislature intended to extend the right to repurchase to a patentee, the word patentee would have been used in the law instead of applicant, is a plausible one. Were we to accept it, however, section 117 of Act 2874 would become dead letter, as it would have no possible application at all. Under the preceding section (Sec. 116 of Act 2874) no conveyance can be made "from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant." Hence, a mere applicant, without patent, may not sell the land applied for before the patent is issued. How can he (applicant), therefore, repurchase a property he may not sell? Clearly, the term "applicant" can mean no other person than a patentee, because only a patentee has the right to make a conveyance and only a vendor can have the right to make a repurchase. This conclusion is reinforced by the use of the clause "when proper" in said section 117, under which conveyance is proper only after, not before, the expiration of five years from the issuance of the patent. The additional argument that the law has no reason to protect a patentee, as it has the interest of a mere applicant without a patent, has long ago been rejected by us in the case of *Abendaio vs. Hao Su Ton*, 47 Off. Gaz., 6359, where we said:

"The contention that under the terms of section 119 of Commonwealth Act 141, a patentee or grantee of homestead land has no right to repurchase, because such right is granted only to the 'applicant', is untenable because the section clearly speaks of 'conveyance of land acquired under free patent or homestead,' and it is obvious that before issuance of the patent (or at least before final proof), the applicant has not acquired the land. The term 'applicant' in the section involved is evidently descriptive and purports to identify the one in whose name the patent was issued. The plain intent of the law is to give the homesteader or patentee every chance to preserve for himself and his family the land that the State granted him as a reward for his labor in cleaning and cultivating it; and this purpose would be defeated by the construction proposed by the applicant. (*Pascua vs. Talens*, 80 Phil., 792.)"

In consonance with the above, we decide and hold that the term "applicant" as used in Section 117 of Act 2874, now Section 119 of the Public Land Law, Commonwealth Act No. 141, should be interpreted to mean the holder of a patent, whether a homestead patent or a free patent.

In connection with the case of *Isaac, et al. vs. Tan Chuan Leong, et al.*, supra, it appears that the homestead involved therein was patented on September 13, 1917, and original certificate of title thereto issued on October 1, 1917. At the time of the issuance of the patent and the title, there was yet no provision of law in force, similar to section 117 of Act 2874, or section 119 of Commonwealth Act No. 141, which allow repurchase by an applicant within five years from the date of conveyance. The facts of the cases at bar are entirely different, because the patents and titles were issued in the years 1926 and 1927, when section 117 of Act 2874 was already in force. It is not true that there was no law in force granting the right to repurchase when the titles in question were issued. The provision as to the right to repurchase was in existence since 1919, the date when Act 2874 was passed. There

can, therefore, be no question of the violation of a vested right of a patentee, as expounded in the case of *Balboa vs. Farrales*, 51 Phil., 498, or the possibility of the application of the constitutional provision against the infringement of the obligation of contracts, as considered in the case of *Isaac, et al. vs. Tan Chuan Leong, et al.*

The question of the conversion of the purchase price of the lands in question into Philippine currency, in accordance with the Ballantyne scale, is correctly decided by the Court of Appeals. As the repurchase could be effected before liberation, in accordance with the law (Sec. 119, Public Land Act), and, therefore, with occupation currency, it is evident that the parties, could not speculate or agree on the continuation or cessation of the war as the time of the repurchase and the Ballantyne scale is applicable (*Hilado vs. De la Costa*,[*] 46 Off. Gaz., 5472).

In view of the foregoing considerations, we find no error in the judgments appealed from, and the decisions should be, as they are hereby affirmed, with costs against the petitioner. So ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

[*] 89 Phil., 24.

[*] 83 Phil., 47.

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