

HEIRS OF MORO BALABAGAN, NAMELY: INOK, ADANG, PINAN-TAO, KALASOMA, MARIAM, ABDULKARIM AND HADJI MOKAMAD, ALL SURNAMED BALABAGAN, PETITIONERS, VS. HONORABLE INTERMEDIATE APPELLA...

G.R. No. L-47940. December 26, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This case is about the validity of the sale of a piece of land measuring some 126,256 square meters (about 12.6 hectares) acquired as a homestead. The laws involved are the Administrative Code of Mindanao and Sulu and the Public Land Act (C.A. No. 141, as amended).

The homestead patent for the land situated in Cotabato was issued to Moro Balabagan and his wife on February 21, 1934. On April 24, 1941, Moro Balabagan sold the land to Abu Tucud for the sum of P500.00. The sale was embodied in a public instrument but was not registered; the vendee took possession of the land and declared it in his name for tax purposes. Both the vendor and the vendee are dead and the instant suit is between their respective heirs.

After the war the heirs of Moro Balabagan judicially reconstituted their predecessor's title over the land and thereafter paid taxes thereon.

The heirs of Abu Tucud filed suit in the Court of First Instance of Cotabato against the heirs of Moro Balabagan for reconveyance of the land thru the cancellation of the title which had been reconstituted.

The Court of First Instance rendered judgment as follows:

"WHEREFORE, judgment is hereby rendered for the defendants and against the plaintiffs as follows:

1. Dismissing the complaint with costs against the plaintiffs;
2. Declaring the deed of sale of real property (Exhibit C) executed by the deceased Balabagan Moro in favor of the deceased Abu Tucud null and void ab initio;
3. Declaring the heirs of Balabagan Moro and the defendants as the owners of the lot in question; and
4. Ordering the plaintiffs to vacate the lot and restore possession thereof to the defendants." (Rollo, p. 138.)

The plaintiffs appealed to the Court of Appeals and in a decision penned by Acting Presiding Justice Magno S. Gatmaitan, concurred by Justices Samuel F. Reyes and Simeon M. Gopengco, the decision of the trial court was reversed in the following fashion:

"IN VIEW WHEREOF, this Court is constrained to reverse, as it now reverses, judgment appealed from, prayer for reconveyance is granted; defendants' title as to Lot 2 is ordered to be reconveyed unto plaintiffs, should defendants not do this within a period of 30 days from the date this judgment should have become final

if it ever will, this decision shall be enough authority to Register of Deeds to cancel defendants' title to Lot 2 and have it placed in the names of plaintiffs, costs against defendants." (Rollo, p. 16.)

Moro Balabagan and Abu Tucud were non-Christians at the time of the sale. Hence, the transaction was governed by Section 145 (b) of the Administrative Code of Mindanao and Sulu which provides that no conveyance or encumbrance of real property shall be made in that department by any non-Christian inhabitant of the same, unless, among other requirements, the deed shall bear indorsed upon it the approval of the provincial governor or his representative, duly authorized in writing for the purpose. The case of *Mangayao vs. Lasud*, 120 Phil. 154, 11 SCRA 158 (1964) holds that conveyances of lands by non-Christians without the approval of competent authority are void ab initio and not merely voidable.

The Public Land Act is also applicable because the land was acquired as a homestead and Section 118 of the Act provides, inter alia, that:

"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."

The trial court held that the sale between Moro Balabagan and Abu Tucud was void for non-compliance with the requirements of both the Administrative Code of Mindanao and Sulu and the Public Land Act. The Court of Appeals found otherwise.

The petitioners who are the heirs of Moro Balabagan now seek a review of the appellate court's decision. A review is not warranted.

The Court of Appeals found that the legal requirements for the transaction between Moro Balabagan and Abu Tucud had been met. The Court said:

"x x x as this Court sees the exhibits, just a few days after execution and notarial acknowledgment of Exh. A, the very vendor, Balabagan, as shown in Exh. D, wrote to the Provincial Governor of Cotabato asking for its approval, and in the 1st indorsement of 22 May, 1941, - or after about a month thereafter, the Provincial Governor wrote that,

'1st Indorsement
May 22, 1941

Respectfully forwarded to the Honorable Commissioner for Mindanao and Sulu, Dansalan, Lanao, recommending approval.

ALFONSO A. PABLO
Governor.' p. 65,
Folder of Exhibits,
Exh. E.

from which it can be clearly inferred that the Provincial Governor had approved for his part, for one who recommends approval to a superior authority can not but be understood that he himself approves; now as shown in 7th indorsement, - already after the war, no less than the Director of Lands approved, on 8 January, 1947 and in the 8th indorsement, the Secretary of Agriculture also approved, on 27 January, 1947, this Court takes note that Director of Lands had seen that,

'x x x The deed of sale executed on April 24, 1941 by Moro Balabagan, conforms with all the requirements of a valid conveyance and the transaction does not contravene the pertinent provisions of the Public Land Law or the rules and regulations promulgated thereunder.' p. 66, Folder of Exhibits Exh. F,

from which once again, this Court must conclude that as far as the Department of Agriculture was concerned, neither was there found any objection thereto; in other words, both the Provincial Governor as required in the Code of Mindanao and Sulu and the Secretary of Agriculture as required in the Public Land Law had approved; if there still be doubt as to the validity of the sale, let it perhaps be also remembered that according to the Public Land Law at the time, C.A. 141, Nov. 7, 1936, in its Sec. 120, it is there provided that:

'SEC. 110. - Conveyances and encumbrances made by persons belonging to the so-called 'non-Christian tribes' when pro-per, shall be valid if the person making the conveyance or encumbrance is able to read and can understand the language in which the instrument of conveyance or encumbrance is written. Conveyances and encumbrances made by illiterate non-Christians shall not be valid unless duly approved by the Commissioner of Mindanao and Sulu.' Land Titles and Deed, Appendix C, p. 460.

and according to the evidence, vendor Balabagan was even a 'guro' or tutor, he was a 'Pandita' meaning priest, tsn, I:46, he could write Arabic well, tsn, id.; perhaps, it could hardly be said that he was an 'illiterate non-Christian'. " (Rollo, pp. 13-15.)

The above are factual findings of the Court of Appeals which are supported by the record and should not be disturbed. They are not conclusions from facts which this Court has the power to review.

WHEREFORE, the petition is dismissed for lack of merit with costs against the petitioners.

SO ORDERED.

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

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