

FAUSTO SENDRIJAS, REPRESENTED BY HERMOGENES M. RECAMADAS, PETITIONER, VS. HEIRS OF TOMAS C. LIBA, SR., REP. BY HIS WIFE NATIVIDAD LIBA, DEPARTMENT OF AGRARIAN REFORM (REP. BY FE...

Ponente: CONTRERAS, J.

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CONTRERAS, J.:

Before the Court is a petition for review, under Rule 43 of the Revised Rules of Court, seeking to reverse and set aside the Decision[1] dated April 23, 2012 of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Case No. 13671 (Reg. Case No. XIII (03)-3030), which reversed the Decision[2] dated November 4, 2004 of Regional Adjudicator Jimmy V. Tapangan of the Office of the Provincial Adjudicator, San Francisco, Agusan del Sur.

The Antecedents

Petitioner claims to be the actual claimant, possessor, and cultivator of an approximately five (5)-hectare portion of a parcel of agricultural land known as Lot No. 1188, SWO-42000, which contains an entire area of 7.3599 hectares and is located in Nurica, Del Monte, Talacogon, Agusan del Sur. Petitioner claims to have been cultivating said portion of land since 1975. He was later joined by his brother-in-law, Hermogenes M. Recamadas, in 1984.

However, on April 27, 1989, an Original Certificate of Title (OCT) No. D-491 covering the entire area was issued in the name of Tomas C. Liba, Sr., the respondents' predecessor-in-interest. The OCT was issued pursuant to Homestead Patent No. 06408.

In consequence thereof, petitioner brought the matter to the Municipal Agrarian Reform Office (MARO) of Talacogon, Agusan del Sur which led to the execution by petitioner and the late Tomas Liba, Sr., of a Mutual Agreement dated August 10, 1989 which states:

x x x

Both parties involved openly agreed to settle this problem among themselves in order to maintain agrarian peace, and mutually covenanted, compromised, to respect all stipulations contained in these undertakings necessary to attain peace, to wit:

That the SECOND PARTY [Tomas Liba, Sr.] is reiterating his demand for cancellation of lot no. 1188, which accordingly is erroneously entered in his name; that he warrants the veracity of the FIRST PARTY, being the true and lawful cultivator, allocatee, of said lot no. 1188;

That he manifestly confessed that he is an applicant of lot no. 1186 of which, he introduced improvements for several years; and that he is praying that title to lot no. 1186 be issued in his name in lieu of lot no. 1188 which was issued in his name;

That the FIRST PARTY on the other hand covenanted to respect of [sic] whatever verdict this agency would apply just to resolve and maintain the so-called agrarian peace among themselves;

x x x

On October 10, 1990, another written agreement was entered into by the petitioner and Tomas Liba, Sr., wherein the parties agreed to wit:

x x x

In our mediation we agree the following:

That the herein respondent recognizes as he hereby acknowledge the fact that the herein complainant is a part-owner of his agricultural land located [in] Nurica, Del Monte, Talacogon, Agusan del Sur and which land is included in the title of the former bearing the number D-491 with a Homestead Patent number 06408 issued on April 27, 1989.

That the herein respondent further acknowledge that the herein complainant owns a total of Five hectares in the aforecited land and that they would cause later on for separation of the title bearing no. D-491 or agree for the transfer of the same in favor of either of them provided it shall be done after the lapse of the period stipulated in the Original Certificate of Title.

That this agreement shall be binding not only between the parties but also to their heirs and successors in interest.

That this agreement was translated to the above-mentioned parties in a Visayan dialect

x x x

Since the agreement did not materialize, petitioner filed on May 27, 2004, a Complaint for Cancellation or Amendment of Title with the Provincial Agrarian Reform Office (PARO), San Francisco, Agusan del Sur docketed as DARAB Case No. XIII (03)-3030.

In their Answer[3] filed on June 30, 2004, private respondents Heirs of Tomas C. Liba, Sr., admitted petitioner's cultivation, for a time, of a portion of Lot No. 1188. They alleged that in 1981, however, petitioner together with his family left for Bohol, thus, permanently leaving his cultivation of the land. They, likewise, admitted the existence of the agreements entered into by petitioner and their predecessors-in-interest Tomas Liba, Sr. but averred that they have learned about it only upon the filing of the case. Furthermore, they assailed the alleged authority granted by petitioner to Hermogenes M. Recamadas arguing that the latter's entry into the property cannot be for and in behalf of petitioner as the latter did not even qualify as an agrarian reform beneficiary. Besides, private respondents added that Recamadas cannot himself qualify as beneficiary of the subject property as he was already an awardee of its adjacent lot evidenced by OCT No. 592.

On November 4, 2004, Regional Adjudicator Jimmy V. Tapangan issued a Decision[4] in favor of petitioner. The fallo of the decision, states:

WHEREFORE, foregoing premises considered, decision is hereby rendered as follows:

- Ordering the Register of Deeds of Agusan del Sur to cause to be corrected Original Certificate of Title No. D-491 so as to indicate therein the area of three (3) hectares for the titleholder Tomas Liba, Sr.;
- For the DAR, thru its MARO in Talacogon, Agusan del Sur, to screen and qualify other beneficiaries for the remaining areas within OCT, D - 491 including herein complainant Sendrijas if qualified (other than his alleged non-occupation);

- For said MARO to generate Certificate of Land Ownership Awards (CLOAs) as there are beneficiaries so qualified, and to thereafter initiate action for the cancellation of OCT, D-491.

Aggrieved, the private respondents appealed the November 4, 2004 Decision to the DARAB.

In its now assailed Decision^[5] dated April 23, 2012, the DARAB granted the appeal and thus set aside the November 4, 2004, Decision of the regional adjudicator, to wit:

WHEREFORE, premises considered, the [a]ppealed Decision is hereby SET ASIDE and a NEW JUDGMENT is rendered, DISMISSING the case for lack of merit.

The DARAB pointed out that since the late Tomas Liba, Sr., was a homestead patent beneficiary, his right is superior to that of a mere tenant as guaranteed by the Agrarian Reform Law. Further, the DARAB ruled that it has no authority to correct or amend a homestead patent title for such jurisdiction lies with the Land Registration Authority (LRA). In addition, the DARAB declared that even if the agreements entered into by the parties were authentic, the same would still be voided since a grantee or homesteader is prohibited from alienating to a private individual a land grant within five years from the time that the patent or grant is issued.

Hence, this petition based on the ground, that:

The DARAB erred in setting aside and dismissing the case on alleged grounds that the subject of this case is a HOMESTEAD PATENT which cannot be alienated and that the DARAB is devoid of the power and/or authority to correct or amend a Homestead Patent Title.

The Court's Ruling

We agree with the petitioner that the present case does not involve a dispute between a landowner and his tenants considering that tenancy was never even alleged in this case. Instead, a perusal of the records reveals that the instant case involved the alleged erroneous inclusion of a portion of land in OCT No. D-491 issued and registered in the name of private respondents' predecessor-in-interest, Tomas C. Liba, Sr.

Petitioner admits that the alleged 5-hectare portion of land which he claims as his is part of the 7.3599-hectare portion of land known as Lot No. 1188, SWO-42000 covered by OCT No. D-491 that was issued pursuant to Homestead Patent No. 04608. It bears stressing that a homestead patent is one of the modes to acquire title to public lands suitable for agricultural purposes.^[6] However, once a homestead patent granted in accordance with law is registered, the certificate of title issued by virtue of the patent has the force and effect of a Torrens title issued under the land registration law. Thus, it has been held in *Heirs of Simplicio Santiago v. Santiago*,^[7] that:

A certificate of title issued under an administrative proceeding pursuant to a homestead patent covering a disposable public land within the contemplation of the Public Land Law or Commonwealth Act No. 141 is as indefeasible as a certificate of title issued under a judicial registration proceeding. Under the Land Registration Act, title to the property covered by a Torrens certificate becomes indefeasible after the expiration of one year from the entry of the decree of registration. Such decree of registration is incontrovertible and becomes binding on all persons whether or not they were notified of, or participated in, the in rem registration process. There is no specific provision in the Public Land Law or the Land Registration Act (Act 496), now Presidential Decree 1529, fixing a similar one-year period within which a public land patent can be considered open for review on the ground of actual fraud (such as that provided for in Section 38 of the Land Registration Act, and now Section 32 of Presidential Decree 1529), and clothing a public land patent certificate of title with indefeasibility. Nevertheless, this Court has repeatedly applied Section 32 of Presidential Decree 1529 to a patent issued by the Director of Lands, approved by the Secretary of Natural Resources, under the signature of the President of the Philippines. The date of the issuance of the patent corresponds to the date of the issuance of the decree in ordinary cases. Just as the decree finally awards the land applied for registration to the party

entitled to it, the patent issued by the Director of Lands equally and finally grants and conveys the land applied for to the applicant.

Further, in *Buston-Arendain, et al., vs. Gil, et al.*:^[8] it was declared, that:

An original certificate of title issued on the strength of a homestead patent partakes of the nature of a certificate of title issued in a judicial proceeding and becomes indefeasible and incontrovertible upon the expiration of one year from the date of promulgation of the order of the Director of Lands for the issuance of the patent. Thus, while the Director of Lands has the power to review homestead patents, he may do so only so long as the land remains part of the public domain, but once the patent is registered and a certificate of title issued, the land ceases to be part of the public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction.

Upon its registration, the land falls under the operation of Act No. 496 and becomes registered land. Time and again, we have said that a Torrens certificate is evidence of an indefeasible title to property in favor of the person whose name appears thereon.

Following jurisprudence therefore, the registration of Homestead Patent No. 04608 which led to the issuance of OCT No. D-491 in the name of Tomas Liba Sr., vested the said OCT with the advantages of indefeasibility of title one year from its issuance; hence, it is not susceptible to collateral attack. Inasmuch as that OCT No. D-491 was issued on April 27, 1989, the filing by petitioner of his complaint only on May 27, 2004, before the PARO was already time-barred.

Moreover, not only was it time-barred, it was likewise filed before a tribunal which has no jurisdiction over the case as it should have been filed before the regular courts and not before the LRA as the DARAB suggests otherwise. As held in the case of *Heirs of Valeriano Concha v. Sps. Lumocso, et al.*,^[9] actions for reconveyance of or for cancellation of title to or to quiet title over real property are actions that fall under the classification of cases that involve "title to, or possession of, real property, or any interest therein" pursuant to the provisions of Batas Section 19 and 33 of Batas Pambansa 129,^[10] as amended.

Nonetheless, we should point out that respondents had admitted the existence of the Mutual Agreement dated August 10, 1989 and the written agreement dated October 10, 1990 executed by petitioner and Tomas Liba, Sr., in which upon perusal reveals that Tomas Liba, Sr., in essence, confessed that the 5-hectare portion of land which petitioner had been cultivating was erroneously included in his title. That being so, serious doubt as to the validity of the issuance of the homestead patent and its consequent title has been cast. Likewise, we are of the opinion that an examination as to whether the agreements had been made in violation of Section 118 of the Public Land Act which prohibits any encumbrance or alienation of lands acquired under homestead provisions from the date of the approval of application and for a term of five years from and after the date of issuance of the patent or grant^[11] is imperative as it also makes the homestead patent susceptible to cancellation.

After all, while certificates of title are indefeasible, unassailable and binding against the whole world, including the government itself, they, however, do not create or vest title. They merely confirm or record title already existing and vested. They cannot be used to protect a usurper from the true owner, nor can they be used as a shield for the commission of fraud; neither do they permit one to enrich himself at the expense of others.^[12]

However, we note that the 5-hectare portion of land which petitioner claims cannot simply be conveyed directly to him. Lands acquired under homestead patents come from the public domain. Granting that disputed portion was indeed erroneously included in the homestead patent awarded to the late Tomas Liba, Sr., then the said portion must be reverted back to the State and not to petitioner. On this matter, it is the Solicitor General, on behalf of the government, who is by law mandated to institute an action for reversion. This right of the government to bring an

appropriate action for reversion is not barred by the lapse of time for the Statute of Limitations does not run against the State.[13]

Section 101 of Commonwealth Act No. 141 provides that actions for reversion of public lands fraudulently awarded must be instituted by the Solicitor General in the name of the Republic of the Philippines:

Section 101. All actions for the reversion to the government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth of the Philippines.

Thus, in *Garingan v. Garingan*,^[14] it was held that only the State may file a case for cancellation of title due to the grantee's violation of the conditions imposed by law:

A certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding, as long as the land disposed of is really a part of the disposable land of the public domain and becomes indefeasible and incontrovertible after one year from issuance. x x x. The only instance when a certificate of title covering a tract of land, formerly a part of the patrimonial property of the State, could be canceled, is for failure on the part of the grantee to comply with the conditions imposed by law, and in such case the proper party to bring the action would be the Government to which the property would revert.

Should the Solicitor General, in this case, finds it proper to file such an action, it is in that action that the agreements entered into by petitioner and Tomas Liba, Sr., may be properly threshed out.

WHEREFORE, premises considered, the instant petition is DENIED. This judgment is without prejudice to any appropriate action that the Republic, through the Solicitor General, may take against Original Certificate of Title No. D-491. Accordingly, let copies of this decision be furnished the Office of the Solicitor General.

SO ORDERED.

Lloren, J., Ch., and Santos, JJ., concur.

[1] Rollo, pp. 7-13.

[2] Annex "F" of the petition, rollo, pp. 47-51.

[3] Annex "E" of the petition, rollo, pp. 42-43.

[4] *Supra*, note 2.

[5] *Supra*, note 1.

[6] *Marcelo Lopez, et al. vs. Jose Esquivel, et al.*, G.R. Nos. 168734, 170621, April 24, 2009.

[7] G.R. No. 151440, June 16, 2003.

[8] G.R. No. 172585, June 26, 2008.

[9] G.R. No. 158121, December 12, 2007.

[10] Otherwise known as the Judiciary Reorganization Act of 1980 and since amended several times.

[11] *Alejandro Binayug, et al. vs. Eugenio Ugaddan, et al.*, G.R. No. 181623, December 5, 2012.

[12] *Sps. Aurora and Elpidio De Pedro vs. Romasan Development Corp., et al.*, G.R. NO. 158002, February 28, 2005. [13] *Juan Sala vs. Court of First Instance of Negros Oriental, et al.*, G.R. No. 47281, April 27, 1990.

[14] G.R. NO. 144095, April 12, 2005.

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