

**FLAVIANA GARCIA, ET AL., PLAINTIFFS AND APPELLEES, VS.
FRANCISCO VALERA, DEFENDANT AND APPELLANT.***G. R. No. L-3072. April 18, 1951*

Ponente: PARAS, C.J.

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On August 2, 1934, homestead patent No. 28199 was issued in favor of Marcelo Uson covering a parcel of land situated in the barrio of Barat, municipality of Bambang, province of Nueva Vizcaya. Original certificate of title No. 1291 was issued in his name on October 31, 1935. On August 10, 1939, Marcelo Uson sold the land to Francisco Valera for the sum of P600 and, upon registration of the sale, transfer certificate of title No. 3313 was issued in the latter's name by the register of deeds of Nueva Vizcaya. Marcelo Uson died in 1944. His wife (Flavians Garcia) and two minor children (Alfonso Uson and Rubio Uson) filed on October 22, 1948, in the Court of First Instance of Nueva Vizcaya a complaint praying that Francisco Valera be ordered to reconvey the land sold by Marcelo Uson and to pay as damages one hundred pesos yearly from the date of the filing of the complaint. After trial, judgment was rendered declaring the sale made by Marcelo Uson in favor of Francisco Valera null and void, ordering the defendant to retransfer the lot in question to the plaintiffs who are in turn directed to pay to the defendant the sum of P600 with legal interest from the date of the judgment, and ordering the register of deeds of Nueva Vizcaya to cancel transfer certificate of title No. 3313 and issue a new one in the names of the plaintiffs, subject to the lien of P600 in favor of the defendant, without pronouncement as to costs. From this judgment the defendant has appealed.

Section 1 of Commonwealth Act No. 456, which took effect on June 8, 1939, provides 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 this provision is applicable to the homestead patent issued in favor of the appellant on August 2, 1934, and as he failed to prove that the sale of August 10, 1939, from Marcelo Uson to the appellant, was approved by the Secretary of Agriculture and Commerce, the same is null and void.

The appellant testified that, shortly after the execution of the deed of sale in his favor, he and notary public Rizal Magallanes went to the Bureau of Lands in Manila to get the approval of the sale, and they were able to get a letter from said bureau which they took to the office of the register of deeds of Nueva Vizcaya, although the appellant failed to explain the nature of said letter and to present in evidence a certified copy thereof. Upon the other hand, appellees' witness Nicomedes Costales testified that he has been a clerk in the office of the register of deeds of Nueva Vizcaya since 1927; that he does not remember whether or not, at the time the sale in favor of the appellant was registered, it was accompanied by the approval of the Secretary of Agriculture and Commerce; and that after the receipt of Circular No. 36 of the Department of Justice dated March 20, 1946, the office of the register of deeds of Nueva Vizcaya has always required sales of homesteads to be accompanied by the necessary approval of the Secretary of Agriculture and Commerce. The trial court ruled that the appellant has not proved the

existence of the approval of the sale in his favor.

Without deciding whether Commonwealth Act No. 456 is applicable to homestead patents issued prior to the approval of said Act, we are of the opinion that the appealed order should be reversed. It is significant that appellee's witness did not definitely declare that the sale in question did not carry the requisite approval when it was presented for registration; that the appellant at least testified, and this is uncontradicted, that he took to the office of the register of deeds of Nueva Vizcaya a letter obtained from the Bureau of Lands in connection with his sale; and that the corresponding transfer certificate of title (No. 3313) was issued in the name of appellant by the register of deeds of Nueva Vizcaya in virtue of the sale made by Marcelo Uson. All these, coupled with the fact that the record does not show any constitutional or legal ground for not approving the sale in question and with the legal presumptions that official duty has been regularly performed and the law has been obeyed, fairly lead to the conclusion that the sale from Marcelo Uson to the appellant was made in conformity with Commonwealth Act No. 456. At any rate, the plaintiffs-appellees (who alleged in their complaint that the requirements of the law had not been complied with) should have relied on the strength of their own evidence and not on the weakness, if any, of the evidence for the defendant-appellant. (Nolan vs. Jalandoni, 23 Phil., 292.)

Wherefore, the appealed judgment is hereby reversed and the defendant-appellant absolved from the complaint, with costs of this instance against the appellees. So ordered.

Feria, Bengzon, Tuason, Jugo and Bautista Angelo, JJ., concur.

PARAS, C. J.:

Justices Padilla and Reyes voted for the reversal.

DISIDENTE

PABLO, M.,

En mi humilde opinion, la aprobacion por el Secretario de Agricultura y Comercio de la venta de un homestead debe constar por escrito y no presunta. El Estado concede homestead a los desheredados de la fortuna, para su beneficio y de sus herederos, y, no para los acaparadores; por eso, la legislatura lo ha rodeado de medidas protectoras para su conservacion en manos de aquellos.

La venta de un terreno cualquiera debe justificarse por medio de un documento: es ineficaz si no consta, cuando menos, en un memorandum. La aprobacion por el Secretario de la venta es la que da validez a la venta de un homestead. Esa aprobacion debe constar por escrito y al pie de la misma escritura de venta para evitar fraudes. A falta de esa prueba escrita, la venta realizada por Marcelo Uson debe ser declarada nula.

La razon de la Legislature al exigir por medio de la Ley No. 456 del Commonwealth la aprobacion por el Secretario de Agricultura de la venta de un homestead es la facilidad con que algunos acaparadores, especialmente las corporaciones japonesas en Mindanao, se apoderaban de los terrenos publicos, en dano y perjuicio de los pobres, y en contravencion de la politica del Estado de proporcionar un pedazo de terreno a cada ciudadano.

La concentration en pocas manos de la propiedad real ha dado lugar a grandes cataclismos sociales. La Rusia de los Czares es un ejemplo viviente: engendro el odio a la propiedad y dio lugar al nacimiento con sangre y fuego del comunismo rojo. Las haciendas de los frailes en Filipinas fueron el foco de la revolution.

Si la intencion de la Legislatura es formar una nation fuerte y vigorosa, fomentando la democracia economica de

tal manera que el mas pobre tenga un hogar, que se cumpla el espiritu de la Ley No. 456 del Commonwealth.
Voto por la confirmation de la decision apelada.

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