

JOSE VILLAREAL, PLAINTIFF AND APPELLEE, VS. RAFAEL CORPUS, DIRECTOR OF LANDS, DEFENDANT AND APPELLANT.

G.R. No. 11681. March 17, 1917

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal from an order entered in mandamus proceedings requiring the defendant, the Director of the Bureau of Lands, to sell to the plaintiff a part of the San Lazaro Estate under the terms and conditions prescribed in Act No. 2360 as amended by Act No. 2478.

The following agreed statement of facts was submitted in the court below:

"1. That the defendant admits that the plaintiff has been in possession of the land described in the attached plan and marked Exhibit A, for about twelve years until the year 1911, according to the record in the archives of the Bureau of Lands and that during said period of time the said plaintiff has always paid to the administrator of the San Lazaro Estate the annual rent corresponding to the parcel of land described in said plan.

"2. That on or about the year 1911, the Bureau of Lands made a subdivision by lots of the lands situated in the San Lazaro Estate and since then has collected from the defendant (plaintiff) only the amount of the annual rent corresponding to lot 12, block 2 of the said San Lazaro Estate. That the subdivision above mentioned was necessary to the due administration of said estate.

"3. That during the period covered by the 28th day of February and the 28th day of November, 1914, the plaintiff has made several and repeated requests to the Director of Lands asking that the land described in the attached plan marked Exhibit A, be sold and conveyed to him, but in spite of this fact, the said Director of Lands has refused to do so for the reason that the land described in the complaint did not conform to that, for which the plaintiff paid rents to the Bureau of Lands.

"4. That the plaintiff admits that on the * * * day of November, 1914, in order not to lose his right to buy lot 12, block 2, he executed a contract with the Bureau of Lands, in which the latter party obliged itself to sell to the former, only the land known as lot 12, block 2. (Act No. 2360 [sec. 2].)

"5. That the defendant likewise admits that the plaintiff has been until now in the actual possession of the whole lot fenced and surrounded by a wall of rock, as appears in the plan marked Exhibit A.

"6. That should the plaintiff testify, he would affirm that he has been in possession of the lot in question for about twenty-five years up to this date."

This agreed statement of facts read together with the pleadings and the evidence which was adduced in addition thereto, clearly discloses that plaintiff is, and for twenty-five years has been, in exclusive possession and occupation of about 950.25 square meters of land lying within the boundaries of San Lazaro Estates; that this land was formerly wild, uncultivated, and swampy; that since taking possession, plaintiff has filled it in, enclosed it with a stone fence, and erected two houses on the lands thus reclaimed; that in or about the year 1911, the surveyors of the Bureau of Lands prepared a plan of the San Lazaro Estate upon which the tract occupied by the

plaintiff appears to be subdivided into two lots, one containing some 700 square meters which has been sold to the plaintiff under the provisions of section 2 of Act No. 2360, and the other containing some 250.25 square meters which the defendant Director of Lands declined to sell to the plaintiff; that during the period included between the 28th day of February and the 28th day of November, 1914, that is to say, during a period of nine months from the date of the passage of Act No. 2360, the plaintiff made repeated requests of the Director of Lands for permission to purchase, and stood ready at all times to comply with the terms upon which authority to purchase was conferred upon him by section 2 of that Act; and that plaintiff continued in the possession and occupation of this lot, on which one of the houses erected by him is located, down to the date of the institution of these proceedings.

Section 2 of Act No. 2360 which was enacted on the 28th day of February, 1914, is as follows:

"Within nine months from the date of the passage of this Act each of the present occupants or tenants shall be entitled to purchase a lot, or any of the lots of land occupied by him, the area whereof shall not be in excess of fifteen hundred square meters if it is for a residence or six thousand square meters if for other purposes at a price to be fixed by the Director of Lands, not more than the valuation at which they are now assessed by the Collector of Internal Revenue, payable in semiannual installments within a period of not more than fifteen years if for a residence, and not more than five years if for other purposes: Provided, That the purchaser who shall have selected the period of fifteen years in which to pay for the lot purchased by him for residence purposes shall, after the first ten years, be compelled to pay the land tax on said lot, the provisions of section five of this Act to the contrary not- withstanding."

It is very clear that under the provisions of this section, the plaintiff was entitled to purchase the entire tract of land occupied by him, and that the action of the Director of Lands in declining to sell him more than 700 square meters, for no other reason than that the surveyors of the Bureau of Lands had divided the entire tract into two lots, was a mere arbitrary exercise of power.

Section 2 of Act No. 2360 was amended by Act No. 2478 on February 5, 1915, so as to read as follows:

"Prior to July first, nineteen hundred and fifteen, all bona-fide occupants of the said estate shall be entitled to purchase all the lands occupied by them or by their legal representatives as shown by the records of the Bureau of Lands, not to exceed fifteen hundred square meters for residential and twelve thousand square meters for charitable, religious, or any other purposes, at a price to be fixed by the Director of Lands with the approval of the Secretary of the Interior not to exceed the value at which said lands are now assessed by the city assessor and collector of Manila, and the purchase price may be paid cash down or in semiannual installments within a period of not more than fifteen years, and the purchasers shall be compelled to pay the cost of the surveys necessary to carry out the purposes of this Act, which shall be added to the sale value of the lands surveyed. Land or lands purchased in accordance with the provisions of this Act shall be subject to the payment of the land tax, like any other property, from the date of the execution of the contract covering it or them."

The contentions of the Attorney-General at this time, would seem to be that plaintiff is not entitled to purchase the lot in question under the terms of the statute thus amended, because the Director of Lands having declined to receive rent for the lot in question from and after the year 1911, when the surveyors prepared their plan subdividing the entire tract into two parcels, the plaintiff at the time of the institution of this action was not a tenant and therefore not a "bona-fide occupant" of the lot in question. There can be no question, however, that plaintiff was an occupant, as that term is used in section 2 of Act No. 2360, and that under the terms of that Act, he acquired a right to purchase the lot in question and did everything required of him to enable him to exercise that right; so that without having recourse to the amendment to this section contained in Act No. 2478, the plaintiff is manifestly entitled to a peremptory order requiring the Director of Lands to comply with its terms as originally enacted.

We are inclined to think, furthermore, that even under the provisions of that section as amended by Act No. 2478, the plaintiff must be held to be a bona-fide occupant, notwithstanding the fact that the Director of Lands has declined to receive rent for the lot in question since 1911. The plaintiff did not lose possession at the time when the land was subdivided, and has continued in possession and occupation ever since, at all times insisting upon his right to retain possession, and since the passage of Act No. 2360, to acquire title thereunder. The benefits of the provisions of Act No. 2478 are not limited to tenants of the estate as shown on the record of the Bureau of Lands, but are secured to bona-fide occupants of the estate whether tenants or not, provided their occupancy is shown on the records of the Bureau of Lands; and it would appear that the fact that plaintiff is a bona-fide occupant, is disclosed by the records of the Bureau notwithstanding the fact that this record further discloses that the Bureau has arbitrarily declined, since 1911, to permit him to occupy as tenant. But, however this may be, we have no doubt that the plaintiff has the right to enforce, in this action, the privilege accorded him under section 2 of Act No. 2360, which has never been lost by any act of the plaintiff himself, or by the failure on his part to comply with the terms of the Act or of any lawful regulation made under authority of that Act.

The facts in this case are very similar to those upon which we adjudicated the rights of another occupant of the San Lazaro Estate in the recently decided case of the Government of the Philippine Islands vs. Memije (p. 271, ante) and much of what was said in the opinion filed in that case is equally applicable to the case at bar and need not be repeated at this time.

We conclude that the order entered in the court below should be affirmed, with the costs of this instance against the appellant. So ordered.

Torres, Trent, and Araullo, JJ., concur.

Moreland, J., did not sign.

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