

OLIMPIO GUTIERREZ, PLAINTIFF AND APPELLANT, VS. MIGUEL SANTOS, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 12253. March 28, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On September 13, 1955, plaintiff brought this action before the Court of First Instance of Rizal to annul the decisions of the Director of Lands and the Secretary of Agriculture and Natural Resources involving Lot No. 3, Block No. 32, of the Tambobong Estate, with an area of 426 square meters, situated in Malabon, Rizal.

Defendants Miguel Santos and Ciriaco Lachica filed their answer denying the material averments of the complaint. Defendants Director of Lands and Secretary of Agriculture and Natural Resources, after filing their answer, were substituted by the Land Tenure Administration which took over the administration of landed estates under Republic Act No. 1400. Defendant Ciriaco Lachica died on December 15, 1955, and upon motion of plaintiff, he was substituted by his surviving spouse and children.

The case having been submitted on a stipulation of facts, the court on December 28, 1956, rendered judgment holding that the decision of the Director of Lands, as upheld by the Department of Agriculture and Natural Resources' was in accordance with law, and, accordingly, dismissed the complaint. In due time plaintiff appealed.

Briefly stated, the facts of this case are: The lot in question was part of the Tambobong estate which was bought by the Government from the Roman Catholic Archbishop of Manila on February 23, 1947 for resale pursuant to the provisions of Commonwealth Act No. 539. On August 8, 1933, before the aforesaid sale, the leasehold right of the lot was purchased by plaintiff from its original lessee for the sum of P90.00 who paid the rentals thereon to the owner and introduced some improvements thereon. Defendant Miguel Santos subleased from plaintiff a portion of the lot on August 8, 1933 at an agreed rental of P8.00 a year and constructed thereon a house wherein he lived with his family. Sometime thereafter defendant Ciriaco Lachica also subleased from plaintiff the remaining portion of the lot at the same annual rental of P8.00 and on which he also constructed a house where he lived with his family.

Sometime in February, 1952, plaintiff applied with the Director of Lands for the purchase of the lot of which he is the registered lessee, which was opposed by defendants Miguel Santos and Ciriaco Lachica, who in turn claimed to have priority to buy the portions occupied by them. Deciding the conflict, the Director of Lands, on May 31, 1955, gave the right of preference to defendants Santos and Lachica, from whose decision plaintiff appealed to the Secretary of Agriculture and Natural Resources. On August 13, 1955, this official affirmed the decision of the Director of Lands, whereupon plaintiff commenced this action as stated in the early part of this decision.

The issue involved herein resolves itself into a question of preference, that is, whether the right to purchase the lot in controversy should be awarded to appellant, the registered lessee, or to appellees who are the actual occupants of portions thereof because they have subleased them from appellant. Appellant claims this right of preference invoking not only the letter and spirit of Commonwealth Act No. 539 but the decision of this Court in the case of

Santiago vs. Cruz, 98 Phil., 168, while appellees claim the same preference on the strength of the decision rendered by the Director of Lands as affirmed by the Secretary of Agriculture and Natural Resources. In substance, appellees come before this Court with the plea that we modify or disregard altogether our decision in the Santiago case if only to do justice to them who have no piece of land of their own.

We have analyzed the facts of this case and those obtained in the Santiago case (*supra*) and have found that they are substantially similar. In the Santiago case, the lots involved were originally leased by one Mrs. Elisa E. Cayco but whose leasehold rights were later sold to Realeza Cruz. These two lots were later subleased to Fernando Santiago and Francisco Samonte, respectively. Realeza Cruz sought to buy the lots from the Bureau of Lands whose application was opposed by the two occupants claiming preferential right to buy them. This Court decided the conflict in favor of Cruz. In the present case, appellant is the purchaser of the leasehold rights of the original lessee who later subleased the lot to appellees Miguel Santos and Ciriaco Lachica. After the government had acquired the Tambobong estate, appellant sought to purchase the land from the Bureau of Lands whose application was likewise opposed by the two occupants claiming the same preferential right as the one invoked by Santiago and Samonte in the other case. As may be seen, the facts of the two cases are substantially similar and obviously the doctrine in one should apply in the other unless reasons exist for modifying or disregarding the same as we are now urged by appellees. Are there good reasons for doing so?

We will begin by restating what we have said on the interpretation to be placed on the provisions of Section 1 of Commonwealth Act No. 539 as to the preference to be given in the allocation of the lots to be sold among the different conflicting claimants. We said:

"The next question to be determined refers to the preference that should be observed in the allocation of the lots in dispute among their different claimants which constitutes the root cause of the present controversy. In approaching this problem the first thing to be considered is the meaning and scope of the law which governs the administration and disposition of the Tambobong Estate in favor of those whom the law contemplates to extend its beneficent provisions. This law is Commonwealth Act No. 539. Section 1 of this Act provides that the home lots into which the lands acquired thereunder are to be subdivided to promote its objective shall be resold at reasonable prices and under such terms and conditions as may be fixed 'to their bona fide tenants or occupants or private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines.' An analysis of this provision would at once reveal that the intendment of the law is to award the lots to those who may apply in the order mentioned. This enumeration denotes the preferential rights the law wishes to accord to them. Thus, the first choice is given to the bona fide 'tenants', the second to the 'occupants' and the last to 'private individuals'. And this enumeration undoubtedly has been adopted considering the existing social problem and the different situations in which the claimants may be found. This is the order of preference followed by the Director of Lands in awarding the lots to appellant whose status as a bona fide tenant is not disputed, and since this action is in accordance with the intendment and purpose of the law, we see no plausible reason for disturbing it as we are now urged by appellees.

The foregoing interpretation is further justified by a comparison of the provisions of Commonwealth Act No. 539, under which the Tambobong Estate was acquired, with those of Commonwealth Act No. 20, which provided for the resale of homesites acquired thereunder at the time of the approval of the former Act. Note that while under Commonwealth Act No. 20 the home lots are to be resold only to bona fide occupants, the Act that had superseded it, Commonwealth Act No. 539, modified this provision by providing three groups of persons who may purchase the lots in, the order of preference accorded to them. This change is indicative of the clear intent of Congress with regard to the preferential rights to be accorded to tenants, occupants and private individuals." (*Santiago vs. Cruz, supra*).

The main claim of the Land Tenure Administration and his co-appellee which they now invoke as one reason for the reversal of our ruling in the Santiago case is that the term bona-fide tenant referred to in the law cannot apply

to a registered lessee because the latter does not have the actual, physical or material possession of the lot of which he is the lessee. In other words, appellees maintain that only tenants who have the physical possession of the lot can be considered bona-fide tenant within the meaning of the law and not an absentee lessee even if he has a registered contract of lease with the owner.

Of course there are some common law or American authorities that may be cited in support of the claim that a tenant is one who leases the land and at the same time enters into its possession, but the authorities are not unanimous for there is ample authority to the effect that the terms tenant and lessee are synonymous or used interchangeably. Thus, it was held that "usually, * * * the word 'landlord', as employed in legal parlance, as well as in ordinary usage, means same as 'lessor' and the word 'tenant' the same as 'lessee' (32 Am. Jur., p. 28); or 'He who grants a lease is called the 'owner' or 'lessor'. He to whom a lease is made is called the 'lessee' or 'tenant'. Viterbo vs. Friedlander, 120 US 707, 30 L ed 776, 7 S Ct. 962." (32 Am. Jur., p. 28).

Moreover, the very definitions quoted by appellees of the word "tenant" convey the meaning that a tenant need not actually possess the land under lease. Thus one of the definitions given is that "A tenant is * * * one who holds or possesses the land or tenements by any kind of title, either in fee, for life, for years, at will or upon sufferance." (Powers vs. Ingraham, N.Y., 3 Bard, 576, 579; Words and Phrases, Vol. 41, pp. 299 and 300), which indicates that all that is required to be a tenant is that he must hold or possess the land; it is not necessary that he be in actual physical possession thereof. This is also in accord with the nature of possession as considered in this jurisdiction. Thus, under Article 531 of the New Civil Code, possession may be acquired in any of the following ways: (1) by the material occupation of the thing; (2) by the exercise of a right; (3) by the fact that it is subject to the action of our will and (4) by the proper acts and legal formalities established for acquiring such right; from which we may infer that the actual physical possession is only one of the several modes by which possession may be acquired. And so we may say that a person who holds the leasehold right over a property may also be called a tenant even if the material possession thereof is held by another.

That a registered lessee may be considered a bona-fide tenant can also be gleaned from the amendment introduced by Congress in Commonwealth Act No. 20. It should be noted that the original provision of this act authorized the disposition of the land only to bona-fide occupants, but because of the injustice that such provision may cause to lessees or tenants, Congress sought to amend the law by providing that the lots be sold "to their bona-fide tenants or occupants or private individuals." (Commonwealth Act No. 539). The amendment clearly implies that bona-fide tenants need not be the actual occupants, as otherwise the purpose of the amendment would be meaningless. This is an added reason why we interpreted the law as amended in the sense that Congress intended to sell the lots according to the following preference: First, to bona-fide tenants, second, to occupants, and third, to private individuals, circumstances being equal.

This ruling is further fortified if we take judicial notice of Senate Bill 644, which was approved by Congress in 1957, as an amendment to Republic Act 1400, which created the Land Tenure Administration, section 6 of which provides:

"(6) For the purpose of deciding conflicting claims, the Administration shall recognize the first preferential right of a bona-fide tenant or lessee of the subdivision lot or lots to purchase the same thru a private sale, in the absence of a bona-fide tenant or lessee, or upon his failure or refusal to purchase within three (3) months from notice by the Administration, the next preferential right shall be vested upon the bona-fide occupant of the lot or lots who had been in actual and continuous possession of the same for at least five (5) years immediately prior to the acquisition of the estate by the government and who had introduced improvements thereon for which he had paid taxes to the government. In the absence of a bona-fide tenant or lessee and a bona-fide occupant, or in case they fail or refuse to purchase within three (3) months from notice by the Administration, the lot or lots shall be declared vacant and shall be sold at public auction to private individuals qualified to

acquire and own lands in the Philippines."

In the explanatory note of said Senate Bill No. 644, it is stated that its main purpose is "to minimize and simplify conflict of claims for the right of preference in the purchase of lot or lots in estates acquired by the Government; the lack of a clear statement of preference in the purchase of lots from Government acquired lots had led to many a litigation which in most cases delayed the implementation of the Land Reform Act." Undoubtedly, Congress sought to amend the law in view of our interpretation given in the Santiago case decided on December 29, 1955. Unfortunately, the bill was vetoed by the Chief Executive, apparently upon the advice of the Land Tenure Administration because of its disagreement with our interpretation, but the bill has a persuasive effect because it reflects the opinion of Congress when it approved Commonwealth Act No. 539.

Now, we say that the above order of preference should be observed if the parties affected stand on an equal footing or under equal circumstances, for only in that way can the provision of the law be implemented with equity, justice and fairness to all and in keeping with the spirit of giving land to the landless so that he may have a land of his own. But the order need not be rigidly followed when a party, say a bona-fide tenant, has already in his name other lots more than what he needs for his family, for certainly to give him the preference would work injustice to the occupants. Here, as found in the official record of the Land Tenure Administration, appellant has already an agreement to sell in his favor executed on September 10, 1948, by the Government covering lots Nos. 21, 22, and 4 of Block Nos. 32, 32 & 35, containing 522 square meters, 1,870 square meters, and 167 square meters, respectively, or a total of 2,559 square meters. It also appears that lots 21 and 22 are fishponds, while lot No. 4 is residential. In addition, the record also shows that appellant has purchased lot 13 of Block 32, containing an area of 720 square meters, which he later transferred to his four children on October 7, 1952. All in all, appellant has four lots which he can call his own, against none of appellees except the controverted lot of 426 square meters which if equally divided between them will give to each an area of 213 square meters. On these small lots appellees built their house and had been living there since 1933. In the circumstances, it is our considered opinion that the Government, through its proper officials, observed properly the spirit of the law when it gave preference to purchase the lots in question to the appellees.[1]

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Bengzon, Montemayor, and Gutierrez David, JJ., concur.

Paras, C. J., concurs in the result and for the same reason stated by Justice Bautista's opinion in *Santiago vs. Cruz*, 98 Phil., 168.

Labrador, J., concurs in the result for the reasons expressed in the case of *Santiago vs. Cruz*.

Reyes, J.B.L., J., concurs in the result.

Barrera, J., in the result.

Concepcion, J., reserves his vote.

[1] This case may be differentiated from *Santiago* case *supra*. Here appellant Cruz had seven children, some of them married and since besides the lots in dispute she only had one more lot, the Court decided to affirm the award made in her favor by the Director of Lands. Moreover, occupants waived their right.

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