

DUMANGAY GUITING, PETITIONER AND APPELLEE, VS. THE HONORABLE, THE DIRECTOR OF LANDS, THE HONORABLE, THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, RESPONDENTS AND APPELLANT...

G.R. No. 12906. September 30, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for a writ of certiorari to annul the order of the Director of Lands directing the petitioner, a homestead applicant, to exclude from his application nine hectares of the twenty-four he had applied for and which he had sold to Teodocia Arevado who later on sold to Alfredo (Alberto) Alfon and Virginia de Moron, and the order of the Secretary of Agriculture and Natural Resources that affirmed the Director's order. Both respondent officers answered the petition. Alfredo (Alberto) Alfon and Virginia de Moron were allowed to intervene and file their pleading in intervention (Case No. 218). After hearing the Court of First Instance of Zamboanga del Sur rendered judgment dated 10 June 1957, the dispositive part of which is, as follows:

IN VIEW OF THE FOREGOING, judgment is hereby rendered:

- Declaring null and void the sale in favor of Teodocia Arevado executed by the petitioner on May 16, 1944; and cancelling the award made by the Director of Lands (affirmed by the Secretary of Agriculture and Natural Resources) in favor of the intervenors, Virginia de Moron and Alfredo Alfon;
- Ordering the respondent Director of Lands and Secretary of Agriculture and Natural Resources to issue the patent in favor of the herein petitioner;
- Ordering the intervenors, Virginia de Moron and Alfredo Alfon, to return the possession of the land to the herein petitioner who is hereby ordered to return the purchase price of 200.00 pesos to Teodocia Arevado;
- Reserving to the said intervenors the right of action against Teodocia Arevado, if any exists as a consequence of this judgment;
- It appearing that an action for forcible entry and detainer and for damages is now being actually tried by this Court, no judgment on the issue of damages is hereby made but the same shall be taken up in the said civil case for forcible entry and for damages.
- Without special pronouncement as to costs.

This judgment is a reiteration of another rendered on 24 December 1956 which was set aside and new trial held to hear the evidence for the respondents. From this judgment the respondents and intervenors have appealed. Only questions of law are raised.

The case and the facts, as stated and narrated by the trial court, are:

This is a petition for certiorari seeking to review and annul the decision of the Director of Lands awarding portions of the tot in question to Virginia de Moron and Alberto Alfon, and also the confirmatory judgment of the Honorable Secretary of Agriculture and Natural Resources, for being contrary to law and for having been achieved with grave abuse of discretion on the part of the said officials.

The respondents deny the material averments of the petition and allege that the decision in question was arrived at after the petitioner was given opportunity to be heard and actually produced evidence to support his contention that he did not sell said portions in question to Teodocia Arevado, predecessor in interest of the herein intervenors, but only mortgaged the said portions to her; that said petitioner has exhausted every administrative remedy and has failed because of lack of ground and not because of grave abuse of discretion on the part of the respondent officials herein.

Upon the issues thus joined, the case was tried.

For the purpose of the decision of the Court, the following findings of facts of the respondent Secretary of Agriculture and Natural Resources may be accepted:

"Dumangay Guiting was an applicant for a parcel of land in Lunib, Margosatubig, Zamboanga with an area of twenty-four (24) hectares. On February 10, 1934, his homestead application was approved by the Director of "Lands upon the latter's finding that he possessed all the necessary qualifications to enter the homestead and that the land is disposable and not claimed by another. Thereafter, Guiting occupied the land and cultivated the same. In 1948, he submitted final proof and as upon investigation it was found that he complied with all the requisites preparatory to the issuance of patents the Administrative Officer of the Bureau of Lands issued on March 21, 1950 an order for the issuance of patent to him.

"Meanwhile, various events have transpired in connection with the land leading to a contest over the same.. On May 16, 1944, Guiting executed a deed of sale covering nine (9) hectares of his homestead in favor of Teodocia Arevado. By virtue of said sale, Arevado occupied the land embraced therein and cultivated it by herself and thru her tenants until the year 1953 when, pressed by the need for money, she sold the same to Alberto Alfon and Virginia de Moron, who entered upon the portions conveyed to each of them, that is, three (3) hectares to Alfon and six (6) hectares to de Moron.

"Soon after Alfon and De Moron entered upon their respective portions of the land conveyed to them by Arevado in 1953, Guiting filed a complaint for forcible entry in the Justice of the Peace Court of Margosatubig, Zamboanga del Sur against De Moron and her husband. After hearing, the Court rendered judgment ordering the defendants to vacate the land and to turn it over to the plaintiff, but the defendants remained therein and appealed the case to the Court of First Instance. "Sometime before Arevado sold the land to Alfon and Be Moron, her husband Colasito Gonzalo, lodged a protest with the Bureau of Lands alleging that he was the absolute owner thereof by virtue of the Deed of Sale entered into between his wife and Guiting and praying that he be subrogated in the place of the vendor Guiting as owner of the land. The said protest gave rise to an investigation, the findings of which served as the basis of the aforementioned decision of the District Land Officer dated January 11, 1955 which was affirmed in the order, of the Assistant Director of Lands dated April 26, 1955 which was in turn appealed to this Office by the applicant Guiting." (Exhibit "6".)

The findings of the Assistant Director of Lands referred to above are as follows:

"Contrary to movant's allegation as second ground, at the ocular inspection of the premises it was found out that claimants are in actual possession of the premises. It has also been ascertained that Teodocia Arevado and her tenants, since 1945 up to the time her interest in the land was transferred to Virginia de Moron and Alberto Alfon, had been in the actual occupation of the premises and had introduced thereon improvements consisting of coconut trees 3 to 4 years old, coffee, cacao trees and kapok.

"With respect to the third ground that the District Land Officer erred in considering as absolute sale the

transfer of rights made by Dumangay Guiting in favor of Teodocia Arevado on May 16, 1944, not as a mortgage only, this Office after perusing the evidences submitted by the contending parties believes that the decision is correct. On this point nothing has been presented by Dumangay Guiting to contest the due execution of the instrument of the deed of absolute sale dated May 16, 1944, except his denial that he did not know its contents. The instrument shows that the transaction was one of sale and not a mere mortgage. It was signed by Guiting in the presence of two witnesses, and acknowledged by him and his vendee before the justice of the peace of Margosatubig. There is no doubt about the due execution of the instrument, and the presumption is strong that it embodies the true intent of the contracting parties, which cannot just be overcome by the uncorroborated denial of Guiting." (Exh. "7".)

It would be well to recall that, as found by the trial court, on 10 February 1934 the Director of Lands approved the appellee's application for homestead and allowed him to enter the homestead land; that on 16 May 1944 he sold nine hectares of his homestead land to Teodocia Arevado without the previous approval of the Director of Lands; that in 1948 (9 August 1948, see Exhibits 3-Director & 12-Intervenor) the appellee filed notice of intention to make final proof and on 10 September 1948 submitted final proof (Exhibits 2-Director & 11-Intervenor); that on 21 March 1950 the Director of Lands issued an order directing the issuance of patent in favor of the appellee; that on 21 August 1953, Colasito Gonzalo, husband of Teodocia Arevado, filed a protest with the Bureau of Lands claiming ownership to nine of the twenty-four hectares of homestead land of the appellee; and that because of financial difficulty, Teodocia Arevado sold six hectares of the said parcel of land to Virginia de Moron and three hectares thereof to Alfredo (Alberto) Alfon.

There is no question that the sale of the nine hectares of homestead land to Teodocia Arevado without the previous approval of the Director of Lands was null and void.^[1] The question now is: Did the respondents-appellants gravely abuse their discretion in ordering the amendment of the appellee's homestead application (No. 193441-E-102742) by excluding therefrom the parts sold to Teodocia Arevado which were later on sold to the intervenors-appellants, and requiring the latter to file appropriate public land applications within 120 days from receipt of a copy of the decision of the district land officer?

Sections 14, 16, 20 and 102 of Commonwealth Act No. 141 provide:

SEC. 14. No certificate shall be given or patent issued for the land applied for until at least one-fifth of the land has been improved and cultivated. The period within which the land shall be cultivated shall not be less than one nor more than five years, from and after the date of the approval of the application. The applicant shall, within the said period, notify the Director of Lands as soon as he is ready to acquire the title. If at the date of such notice, the applicant shall prove to the satisfaction of the Director of Lands, that he has resided continuously for at least one year in the municipality in which the land is located, or in a municipality adjacent to the same, and has cultivated at least one-fifth of the land continuously since the approval of the application, and shall make affidavit that no part of said land has been alienated or encumbered, and that he has complied with all the requirements of this Act, then, upon the payment of five pesos, as final fee, he shall be entitled to a patent.

SEC. 16. If at any time before the expiration of the period allowed by law for the making of final proof, it shall be proven to the satisfaction of the Director of Lands, after due notice to the homesteader, that the land entered under the law not subject to homestead entry, or that the homesteader has actually changed his residence, or voluntarily abandoned the land for more than six months at any one time during the years of residence and occupation herein required, or has otherwise failed to comply with the requirements of this Act, the Director of Lands may cancel the entry.

SEC. 20. If at any time after the approval of the application and before the patent is issued, the applicant shall prove to the satisfaction of the Director of Lands that he has complied with all the requirements of the law, but cannot continue with his homestead, through no fault of his own, and there is a bona fide purchaser for the

rights and improvements of the applicant on the land, and that the conveyance is not made for purposes of speculation, then the applicant, with the previous approval of the Director of Lands may transfer his rights to the land and improvements to any person legally qualified to apply for a homestead, * * *. Every transfer made without the previous approval of the Director of Lands shall be null and void and shall result in the cancellation of the entry and the refusal of the patent.

SEC. 102. Any person, corporation, or association may file an objection under oath to any application or concession under this Act, grounded on any reason sufficient under this Act for the denial or cancellation of the application or the denial of the patent or grant. If, after the applicant or grantee has been given suitable opportunity to be duly heard, the objection is found to be well founded, the Director of Lands shall deny or cancel the application or deny patent or grant, and the person objecting shall, if qualified, be granted a prior right of entry for a term of sixty days from the date of the notice. (*Italics supplied.*)

Under the aforequoted provisions of the Public Land Act, the Director of Lands is empowered to cancel an application and a homestead entry, or refuse the issuance of patent if, after due hearing, he finds that the applicant has not complied with the requirements and the provisions of the law, or has violated mandatory provisions of the Law. Upon complaint filed by Colasito Gonzalo the Director of Lands conducted an investigation of the appellee's application and after hearing found that contrary to his previous assertion that he has not encumbered or alienated any part of his homestead land, the appellee had sold nine hectares of his homestead land without his (Director of Lands) previous approval; and that since 1945 (should be 16 May 1944) the appellee had ceased to be in possession of nine hectares of the homestead land. The act, therefore, of the Director of Lands, with the approval of the Secretary of Agriculture and Natural Resources, in ordering the amendment of the appellee's homestead application in the manner herein before stated, did not constitute or amount to a grave abuse of discretion.

The judgment appealed from is reversed and the writ prayed for denied, with costs against the petitioner and appellee.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] Section 20, Commonwealth Act No. 141; *Tinio vs. Frances*, 98 Phil., 32; 51 Off. Gaz. 6205.

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