

ISIDRO BOFIL AND JOSEFINA DECHOSO BOFIL, PLAINTIFFS AND APPELLANTS VS. CATALINO P. CASIDSID AND ERIBERTO A. UNSON, DEFENDANTS AND APPELLEES.*G.R. No. 13746. December 28, 1960*

Ponente: PADILLA, J.

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This is an appeal from a judgment of the Court of First Instance of Davao dismissing the plaintiffs' complaint for annulment and setting aside of a levy and execution sale (Civil case No. 2460).

The facts are not disputed and only questions of law are raised, the judgment appealed from having been rendered upon a stipulation of facts and documentary evidence submitted to the Court by the parties.

Since 26 August 1948 the appellants had been occupying a parcel of land, Lot No. 166, with an area of five hectares, of the Guihing Plantation situate in Padada, Santa Cruz, Davao, administered by the National Abaca and Other Fibers Corporation (NAFCO for short) pursuant to Executive Order No. 29, dated 25 November 1946 (Annex A).[1] On 15 January 1949 a committee of five members appointed to subdivide the plantation into small lots, awarded Lot No. 166 to the appellants (Annex B). On 23 March 1949, the NAFCO and the appellants entered into a contract whereby, for and in consideration of "fifteen per cent (15%) of the gross abaca production of the land and in case of coconuts twenty per cent (20%), food crop exempted," as rental, the former leased to the latter Lot No. 166 for five years from the date of the contract, ex-tendible for a like period at the lessees' election, with option to buy the said lot (Annex C). Sometime thereafter, Lot No. 166 was partitioned into two, Lots Nos. 166-A and 166-B, of 2 1/2 hectares, each, the first awarded to the herein appellant Isidro Bofil and the second to Agustin Bofil, pursuant to a judgment rendered by the Court of First Instance of Davao in civil case No. 955. On 30 September 1953 the appellants wrote to the Board of Liquidators, successor to the NAFCO, complaining that the NAFCO office in Davao refused to accept payment of the rental of his landholding and that one of its employees was claiming it in derogation of his right thereto, and requesting that the NAFCO office in Davao be ordered to accept payment of the rental and that the said lot be sold to them pursuant to the provisions of Republic Act No. 477 (Annex D). On 1 June 1956 the Court of First Instance of Davao rendered judgment in civil case No. 1719 entitled "Catalino F. Casidsid, plaintiff vs. Isidro Bofil et al., defendants," ordering the latter to pay the former "the sum of P2,181.70, representing loans obtained and unpaid from June 20, 1951 to February 28, 1954." The judgment having become final and executory, the Court issued a writ of execution of the judgment. On 27 August 1956 the Provincial Sheriff levied upon "All the rights, interests, title and participation" of the appellants in lot No. 166-A (Annex E). After due publication and notice, on 27 September 1956 the Provincial Sheriff sold at public auction the appellants' rights, interests, title and participation in Lot No. 166-A to the judgment creditor, plaintiff in civil case No. 1719 and appellee herein, for the sum of ₱ 2,330, and issued to him the corresponding certificate of sale (Annex F). On 1 October 1957, after the expiration of one year within which what had been sold at public auction could be redeemed, the Provincial Sheriff executed in favor of the appellee a certificate of absolute sale of the appellants' rights, interest, title and participation in Lot No. 166-A (Annex G). On 29

December 1956 the appellants filed in civil case No. 1719 a "petition to set aside levy and judicial sale" on the ground that the same is null and void as it contravenes the provisions of section 8, Republic Act No. 477 prohibiting the encumbrance or alienation of lands within ten years from the date of the issuance of the certificate of title and exempting them from liability for the satisfaction of any debt contracted prior to the expiration of such period (Annex H). On 16 January 1957 the Court denied the appellants' petition for the reason that an independent action must be instituted for that purpose (Annex I).

On 23 September 1957 the appellants commenced this action in the Court of First Instance, of Davao to annul the levy and execution sale of the appellants' rights, interests, title and participation in Lot No. 166-A to the appellee (civil case No. 2460). On 27 December 1957 the Court rendered judgment dismissing the appellants' complaint on the ground of lack of cause of action. According to the Court, paragraph 2, section 8, Republic Act No. 477, does not prohibit involuntary transfers of lands acquired thereunder, by its coercive power of levy and execution. Hence this appeal interposed by the appellants.

The appellants invite the attention of this Court to the fact that Lot No. 166-A had not yet been sold to them despite an offer to purchase; that they have no owner's title thereto; that the contract to lease the said lot executed on 23 March 1949 already had expired on 23 March 1954 and had not been renewed; and that their only remaining right and interest therein is the fact that they are occupants thereof since 26 August 1948 and the husband appellant is a veteran of the last war or member of a guerrilla organization, which would entitle them to purchase it from the Government under the provisions of Republic Act No. 477, a right which may not be transferred or assigned. They argue that the levy and execution sale of their rights, interests, title and participation in Lot No. 166-A are illegal and null and void.

Republic Act No. 477, the pertinent parts of which are hereinbelow quoted for ready reference, provides:

Section 1. All lands which have been or may hereafter be transferred to the Republic of the Philippines in accordance with the Philippine Property Act of 1946 (Act' of Congress of the United States of July 3, 1946) and Republic Act Numbered Eight and all the public lands and improvements thereon transferred from the Bureau of Lands to the National Abaca and Other Fibers Corporation under the provisions of Executive Order No. 29, dated October 25, 1946 and of Executive Order No. 99, dated ' October 22, 1947 shall be subdivided by the National Abaca and Other Fibers Corporation into convenient-sized lots, except such portions thereof as the President of the Philippines may reserve for the use of the National or Jocal governments, or for the use of corporations or entities owned or controlled by the government. Subdivision lots primarily intended for, or devoted to, agricultural purposes shall not exceed an area of five hectares for coconut lands, ten hectares for improved abaca lands, and twelve hectares for unimproved lands, urban homesite or residential lots shall not exceed an area of one thousand square meters nor less than one hundred fifty square meters.

Sec. 3. All lands so subdivided except commercial and industrial lots shall be sold by the National Abaca and Other Fibers Corporation without the sales application, publication and the public auction required in Sections 24, 25 and 26 of Commonwealth Act No. 141, as amended, to persons who are qualified to acquire public agricultural lands: Provided, however, That sales of such lands heretofore made by the National Abaca and Other Fibers Corporation without the sales application, publication and public auction as provided in the abovementioned sections of the Public Land Law are hereby authorized, ratified and confirmed: Provided, further, That preference shall be given first to bona fide occupants thereof on or before December 12, 1946 and second to veterans of the last war, and to members .of the guerilla . organizations and other qualified persons who entered the land after December 12, 1946, but not later than December 31, 1948 and who shall be limited to the area tley have actually improved and maintained: Provided, finally, That the Subdivided lots which may still be unoccupied shall be disposed of by drawing lots among qualified persons who may apply for said lots.

Sec. 8. Except in favor of the Government or any of its branches, units, or institutions, land acquired under the

provisions of this Act or any permanent improvements thereon shall not be subject to encumbrance or alienation from the date of the award of the land or the improvements thereon and for a term of ten years from and after the date of issuance of the certificate of title, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of such period.

Any occupant or applicant of lands under this Act who transfers whatever rights he has acquired on said lands and/or on the improvements thereon before the date of the award or signature of the contract of sale, shall not be entitled to apply for another piece of agricultural land or urban, homesite or residential lot, as the case may be, from the National Abaca and Other Fibers Corporation; and such transfer shall be considered null and void.

The notice of levy made by the Provincial Sheriff is couched in the following words:

To: Isidro Bofil and Josefina Dechoso Bofil, Davao City

You are hereby notified that this office is in receipt of the Writ of Execution issued in connection with the above-entitled case, and in compliance with the said writ of execution your real property mentioned and described below is hereby levied and will be sold at public auction after making the necessary legal publication thereof to satisfy the amount of the judgment, sheriff's fees and other legal expenses incident thereto:

All the rights, interests, title and participation you have on a parcel of land with all the improvements thereon, known as Lot No. 166, Padada, Davao, now as Lot 166-A by virtue of the decision of the CFI Davao, and being a portion of the parcel of land situated in Padada, Sta. Cruz, Davao (now Guihing, Padada, Davao) which is known as Lot No. 5412 B. L. Cad. 275. The land was awarded to Isidro Bofil by the NAFCO under a lease contract. Containing an area of 2.5000 Ha. Its estimated assessment is about P2,000.00. (Annex E)

and the certificate of sale executed by the same officer is worded as follows:

That pursuant to the writ of execution issued in connection with the above-entitled case, the undersigned levied all the rights, interests, title and participation of the defendants over the following property described as below;

(Here follows the description of the property levied upon, quoted above.)

That after the required notice and publication as provided in Section 16, Rule 39 of the Rules of Court, on September 27, 1956 at 10:30 a.m., the above-described property of the defendants were sold at public auction;

That at the aforesaid sale at public auction conducted by the undersigned, all the rights, title and interests and participation, of the defendants were sold in favor of the plaintiff being the only bidder during the sale, for the amount of P2,330.00, cash payment was dispensed with the buyer being the plaintiff and considered himself paid up to said amount.

Wherefore, for and in consideration of P2,330.00, Philippine Currency offered by the plaintiff I hereby declared by these presents that I have sold and adjudicated in favor of said plaintiff-buyer, all the rights, interests, title and participation of the defendants over the real property above-described, subject to the rights of redemption in the manner provided by law within the period of one (1) year from the date of sale at public auction that is, on or before September 27, 1957. (Annex F)

Lot No. 166-A was levied upon and sold to the appellee as property owned by the appellants to satisfy a money judgment in favor of the former against the latter. But the appellants have no title to Lot No. 166-A and do not own it. Hence it could not be levied upon and sold to satisfy the appellee's claim against them. Neither could the appellants' leasehold right nor their remaining right and interest therein to purchase it from the Government under the provisions of section 3, Republic Act No. 477, be levied upon and sold for the same purpose, because their leasehold right already had expired and had not been re-hewed, and their remaining right and interest to purchase it could not "become liable to the satisfaction of any debt contracted prior to the expiration of such period." The

right to lease and/or purchase lands treated in Republic Act No. 477 is personal to those to whom they are granted by law. Section 3, Republic Act No. 477, enumerates or lays down the qualifications of persons who may lease or purchase lands treated thereunder, and section 8 of the same Act exempts lands acquired from liability for the satisfaction of any debt contracted prior to the expiration of ten years from the date of the issuance of the certificate of title. To hold that the appellants' right to lease and/or purchase Lot No. 166-A could be levied upon and sold for the satisfaction of the appellee's claim might" result in the lease to and/or acquisition of said lands by other persons regardless of qualifications and would violate the provisions of sections 3 and 8 of Republic Act No. 477. The judgment appealed from is reversed. The levy upon and execution sale of the appellants' rights, interests, title and participation in Lot No. 166-A being illegal has no validity and effect. No pronouncement as to costs.

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

Judgement reversed.

[1] 42 Off. Gaz., 2714-2717. On 24 November 1950, the administration of the plantation was transferred to the Board of Liquidators pursuant to Executive Order No. 372, 46 Off. Gaz., 5314-5317.

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