

PASTOR SANCHEZ, PLAINTIFF AND APPELLEE, VS. ANTONIA CLARETE VDA. DE TAMSI, DEFENDANT AND APPELLANT.

G.R. No. 16736. June 30, 1961

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This case was certified to us by the Court of Appeals for the reason that appellant raises only questions of law.

The litigation was started by a petition filed by Pastor Sanchez (now appellee) in the Court of First Instance of Bohol on February 2, 1952, seeking the cancellation of part of a homestead patent issued on March 3, 1951 by the Bureau of Lands in favor of Severo Tamsi, who obtained, on the strength thereof, Certificate of Title No. 89. Plaintiff averred that the portion of the patent covering Lot No. 2, with an area of 6 hectares, more or less, had been fraudulently obtained by the grantee, as shown by the order of the Director of Lands of March 15, 1940, declaring that plaintiff Sanchez had better right thereto; ordering that the homestead application of Tamsi should be amended by excluding therefrom said Lot No. 2; and giving due course to Sales Application No. 16867 of Sanchez, covering the same land.

Severo Tamsi having died after the suit was commenced, he was substituted by his widow Antonia Clarete Vda. de Tamsi, who duly filed her answer, traversing the allegations of the complaint, and counter-claiming for P3,000.00 damages.

After hearing, the Court below found as follows:

"It appears from the evidence that in connection with a certain conflict or litigation between plaintiff Pastor Sanchez and the original defendant Severo Tamsi, the Director of Lands rendered its judgment (Exhibit A) ordering the exclusion of Lot No. 2 from the Homestead Application No. 136463 (E 90065) of defendant Severo Tamsi, and giving due course to the Sales Application No. 16867 of plaintiff Pastor Sanchez which includes Lot No. 2. According to the testimony of Felix Abella, Surveyor of the Bureau of Lands, Tagbilaran, Bohol, this decision (Exhibit A) rendered on March 15, 1940, was not the subject of any appeal to the Secretary of Agriculture and Natural Resources.

Notwithstanding the decision (Exhibit A), Homestead Patent otherwise called Original Certificate of Title No. 87 was issued in favor of the original defendant Severo Tamsi on March 3, 1951, including therein Lot No. 2 which was ordered excluded from the latter's Homestead Application, as shown from Exhibit A. There is no doubt, therefore, that Lot No. 2 had been included in the Homestead Patent of the original defendant by mistake or inadvertence, as alleged in the complaint.

During the trial the parties have agreed that the disputed Lot No. 2 is included both in the Sales Application of the plaintiff and in the Original Certificate of Title issued to the defendant. The parties further agreed that this lot is a public land."

However, because plaintiff Sanchez derived his claim to the disputed lot from a sales application that was still being processed, the Court a quo rendered a judgment of the following tenor:

"PREMISES CONSIDERED, the Court renders judgment ordering the defendant Antonia Clarete Vda. de Tamsi to reconvey unto the Republic of the Philippines Lot No. 2 erroneously included in the Original Certificate of Title No. 89 issued by the Register of Deeds for the province of Bohol, subject to all the rights and obligations of the plaintiff, as a result of his Sales Application. The defendant is further sentenced to pay the costs.

If the defendant is possessing any portion of Lot No. 2, she is also ordered to vacate it and to deliver its possession to the plaintiff.

Defendant's counterclaim is hereby denied.

SO ORDERED."

From this judgment, the defendant Antonia Clarete Vda. de Tamsi duly perfected her appeal and in her brief assigned the following errors:

I

"The trial court erred in not dismissing the complaint on the ground that 'it is a settled rule that findings of fact made by the Director of Lands and approved by the Secretary of Agriculture and Natural Resources in the administration and disposition of lands of the public domain are conclusive. (Vda. de Alfafara vs. Mapa et al., G. R. No. L-7042, May 28, 1954)."

II

"The trial court erred in ordering the defendant appellant to reconvey unto the Republic of the Philippines lot No. 2, considering that the latter is not a party hereto and besides, it was precisely the Republic of the Philippines, acting thru the Director of Lands and the Secretary of Agriculture and Natural Resources by authority of the President which granted the homestead patent, exhibit "1".

The first assignment of error is unmeritorious. The conclusiveness of the findings of fact of the land officers has always been conditioned upon the absence of fraud, imposition, or mistake, other than error of judgment in estimating the value or effect of evidence (*Ortua vs. Singson Encarnación*, 59 Phil., 440; *Alejo vs. Garchitorena*, 83 Phil., 924; *De Guzman vs. De Guzman*, 104 Phil., 24; 56 Off. Gaz., [4], 753.) Where error or fraud taints the administrative decision, the same remains subject to review by the courts of justice, and the latter may do so at the instance of any interested party (*Rojas vs. Dir. of Lands*, 35 Phil., 196).

In the case now before us, the final decision of the Director of Lands, issued on March 15, 1940 and which was not even appealed by defendant's husband, Severo Tamsi, and has now become final, is conclusive that Lot No. 2 should be excluded from the homestead application of Tamsi, as the lot was not possessed nor cultivated by him, but by herein appellee, who introduced improvements therein. The inclusion of that lot in Tamsi's Patent and subsequent Certificate of Title was, therefore, unwarranted, and, as declared by the trial court, due to error, to say the least. In view thereof, the late Severo Tamsi, as well as his successors in interest (like the appellee herein), must be deemed to hold Lot No. 2 in trust for its real owner, the Republic of the Philippines. Article 1456 of the Civil Code of the Philippines specifically provides:

"If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

This article was already in force when Tamsi's patent was issued and his certificate of title obtained.

The second error assigned by appellant is more meritorious. The Court a quo correctly held that reconveyance of Lot No. 2 in favor of appellee Pastor Sanchez could not be ordered because said party had not yet acquired

ownership or real rights over the lot, since his sales application had not yet been approved. But we deem it erroneous to order in this action that appellant, as holder of the certificate of title, should reconvey the land to the Republic of the Philippines, when the latter is not even a party to the action and is seeking no relief therein. For the sake of orderly procedure, the Court below, instead of ordering the reconveyance, should have limited itself to declaring the trust character of Tamsi's tenure of Lot No. 2, and leave the Republic to seek its remedy through proper proceedings. Of course, the trust should be ordered annotated in the back of the Certificate of Title, to prevent innocent third parties from being misled.

In view of the preceding considerations, the judgment appealed from is modified in the sense of declaring that Lot No. 2 of Certificate of Title No. 89, issued by the Register of Deeds of the province of Bohol, was erroneously included therein, and is held by the grantee Severo Tamsi, and his successors in interest, in trust for the Republic of the Philippines, but without prejudice to the rights and obligations of the plaintiff Pastor Sanchez under his sales application. The Register of Deeds of Bohol shall be furnished with copy of this decision and is ordered to annotate the trust character of said Lot No. 2 upon the Certificate of Title.

In all other respects, the decision appealed from is affirmed, with costs against the appellant.

Bengzon, C.J., Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, De Leon, and Natividad, JJ., concur.

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