

DIRECTOR OF LANDS, PETITIONER, VS. THE COURT OF APPEALS, BRAULIO COSME AND DAMASO A. ACOSTA, RESPONDENTS.

G.R. No. 17696. May 19, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal by certiorari, taken by the Director of Lands, from an amended decision of the Court of Appeals reversing¹ a decision of the Court of First Instance of Isabela in his favor.

The facts are set forth in said amended decision from which we quote:

On November 19, 1926 a sales application was filed with the Bureau of Lands by Benito Tolentino for a tract of public agricultural land with an area of 5 hectares, situated in Barrio Calking, Municipality of Gamu, Province of Isabela. In accordance with the application, which was given number 8706, the land was advertised for sale to the highest bidder and on February 15, 1928 was duly awarded to the applicant pursuant to the provisions of Charter V of the Public Land Act. The survey of the said land was undertaken in 1928, as a result of which it was divided into two lots identified as Nos. 8091 and 3605 of Public Land Subdivision (Pis) 62.

"On January 19, 1950, Tolentino having complied with the legal requirements as to actual occupancy, cultivation and improvement of the area applied for as well as the payment of the purchase price, the Director of Lands signed the corresponding order for the issuance of a patent in his favor. Upon investigation, however, the applicant discovered that a portion of the land covered by his application with an area of 2.3506 hectares, specifically that portion identified as Lot No. 8091 Pls-G2, had been applied for as a homestead by the herein defendant Braulio Cosme on March 22, 1949 and that Homestead Patent No. V-19 had been issued to him by the Bureau of Lands on the following August 19, pursuant to which he obtained Original Certificate of Title No. P-880 from the Office of the Register of Deeds for the Province of Isabela on November 10, 1949. The homestead settlement application had been filed with the now defunct National Land Settlement Administration pursuant to Executive Proclamation No. 610 promulgated in 1940, under which certain areas of public agricultural land in Isabela were reserved for settlement purposes, and it was upon recommendation of that office that the patent was issued by the Director of Lands.

"Upon protest by Benito Tolentino filed with the Bureau of Lands, an investigation was conducted by the District Land Officer for Isabela, and when it was verified that the land covered by the homestead patent was embraced within the area awarded to Tolentino in 1928, the Director of Lands filed the present action on November 27, 1953, for the cancellation of the homestead patent and the original certificate of title issued to the defendant Braulio Cosme.

"On November 7, 1957, after the said defendant filed his answer, an answer in intervention was, with prior leave of court, interposed by Damaso A. Acosta, alleging that on June 2%, 1957, he purchased Lot No. 8091 from the defendant for the sum. of P1,000 and asking that as purchaser for value and in good faith he be declared the lawful owner thereof. He also filed a cross-claim against Braulio Cosme of the latter's title. After trial the court rendered judgment as follows:

'FOR ALL THE FOREGOING CONSIDERATIONS, the Court hereby enters judgment: (a) ordering the Director of Lands to cancel Patent No. V-19 granted in favor of Braulio Cosme; (b) ordering the Register of Deeds for Isabela to cancel Original Certificate of Title No. P-880 in the name of Braulio Cosme, as well as the owner's duplicate copy (Exh. 'T'); and (c) ordering the reversion of the land covered by the said patent to the public domain. Conformably with this decision, defendant Braulio Cosme is hereby, ordered to. pay to the intervenor, Damaso Acosta the sum of P1,000. the consideration of the same (Exh. '1—Intervenor'). Without special pronouncement as to costs.

"The case is now before us on appeal by the defendant and by the intervenor. Their principal contention is that after the certificate of title was issued on November 10, 1949 by virtue of Homestead Patent No. V-19 the land in question came under the operation of the Land Registration Act as provided in Section 122 thereof, and that upon the expiration of one year from the date of its issuance, the said title became incontrovertible. The contention does not meet the issue which is decisive of this case. The present action is not one for review of the decree of title on the ground of fraud, which should be filed within a period of one year under Section 38 of the Land Registration Act, but rather for the cancellation of the patent and certificate of title of the defendant on the ground that they are an absolute nullity, because the Bureau of Lands had no Jurisdiction to issue them at all."

The decision of the Court of First Instance was affirmed in the original decision of the Courts of Appeals, but, on motion for reconsideration filed by Braulio Cosme and Damaso A. Acosta, said Court, citing *Lucas vs. Durian*, L-7886 (September 23, 1957) and *Director of Lands vs. Heirs of Ciriaco Carle*, 105 Phil., 1227 (July 31, 1959), granted the reconsideration prayed for and reversed the decision of the court of first instance, as well as dismissed the complaint herein, without pronouncement as to costs.

Sections 38 and 122 of the Land Registration Act (Act No- 496), upon which appellees rely, read:

"Sec. 38. If the court after hearing- finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and , registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation, or included in the general description "To all whom it may concern". Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees: subject, however, to the right of any person deprived of land or any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible. If there is any such purchaser, the decree of registration shall not be opened, but shall remain in full force and effect forever, subject only to the right of appeal hereinbefore provided: Provided, however, That no decree or certificate of title issued to persons not parties to the appeal shall be cancelled or annulled. But any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. Whenever the phrase 'innocent purchaser for value' or any; equivalent phrase occurs in this Act, it shall be deemed to include an' innocent lessee, mortgagee, or other incumbrancer for value." (As amended by Sec. 3, Act No. 3621; and Sec. 1, Act No. 3630.) (Italics supplied.)

"Sec. 122. Whenever public lands in the Philippine Islands * * * are alienated granted, or conveyed to persons or to public or private corporations, the same shall be brought forthwith under the operation of this Act and shall become registered lands. It shall be the duty of the official issuing the instrument of alienation, grant, or conveyance in behalf of the Government to cause such instrument before its delivery to the grantee, to be filed with the register of deeds for the province where the land lies and to be there registered like other deeds and conveyances, whereupon a certificate shall be entered as in other cases of registered land, and an owner's

duplicate certificate issued to the grantee. The deed, grant or instrument of conveyance from the Government to the grantee shall not take effect as a conveyance or bind the land, but shall operate only as a contract between the Government and the grantee and as evidence of authority to the clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and affect the lands, and in all cases under this Act registration shall be made in the office of the register of deeds for the province where the land lies. The fees for registration shall be paid by the grantee. After due registration and issue of the certificate and owner's duplicate, such land shall be registered land for all purposes under this Act." (Italics ours.)

Inasmuch as, "after due registration" of the patent to a public land "and issue of the certificate and owner's duplicate "such land shall—in the, language of said Section 122—"be registered land for all purposes under" the Land Registration Act, and, pursuant to Section 38, a certificate of title is "incontrovertible" upon expiration of "one year after entry of the decree, provided no innocent purchaser for value has acquired an interest", appellees maintain that the present action is untenable, it having been commenced on December 27, 1953, or more than one (1) year from August 19, 1949 when a patent was issued to Cosme, and from November 10, 1949, the date of issuance of Original Certificate of Title No. P-880 in his favor.

The provision of Section 38 to the effect that a decree or certificate of title shall be incontrovertible upon the expiration of one year after entry of the decree should be construed, however, in conjunction with the sentence immediately preceding the same, pursuant to which a decree of registration "shall not be opened by reason of the absence, infancy or other disability of any person affected thereby, nor any proceeding in any court for reversing judgment or decrees: subject, however, to the right of any person deprived of land * * * by decree of registration obtained by fraud to file in the competent court * * * a petition for review within one year after entry of the decree * * * (Italics ours). In other words, the aforementioned incontrovertibility simply means that the person deprived of the land by said, decree may no longer seek a review thereof upon the ground that it had been "obtained by fraud". No such review is, however, sought in the case at bar. Moreover, the, same has been brought by the Director of Land, not by Tolentino or "the person deprived of the land". As correctly stated in the original as well as the amended decision of the Court of Appeals:

"* * * The present action is not one for review of the decree of title on the ground of fraud, which should be filed within a period of one year under Section 38 of the Land Registration Act, but rather for the cancellation of the patent and certificate of title of the defendant on the ground that they are an absolute nullity, because the Bureau of Lands had no jurisdiction to issue them at all."

Indeed, petitioner-appellant's aforementioned claim of lack of jurisdiction and absolute nullity are predicated upon the incontestable fact: (a) that since February 15, 1928, when the land covered by the sales patent was awarded to Tolentino by the Director of Lands, the latter had lost jurisdiction to dispose of subdivision Lot No. 8091, without previous cancellation of the rights thus' acquired by Tolentino; and (b) the authority to issue a homestead patent in favor of Cosme was avowedly derived from Executive Proclamation No. 610, dated August 29, 1940, and, although within the territorial limits of the area thereby reserved for settlement purposes, said Lots No. 8091 was not subject to the operation of said proclamation, since the same expressly excluded therefrom those; lands which are "subject to private rights".

Then, again, the provision to the effect that after due registration of the patent to a public land and the issuance of the certificate and owner's duplicate, such land shall be registered land "for all purposes," under the Land Registration Act, should not be understood in its literal sense, but must be construed in relation to the other provisions of said Act and the spirit and purpose of the Public Land Act, under which patents are issued. Thus, in a resolution dated September 29, 1962, granting the motion for reconsideration in the case of Arturo Nieto vs. Bartolome Quines and Miguel P. Pio, L-14643, which involved a conflict between a certificate of title issued in pursuance of a decision, in cadastral proceedings, in favor of Maria Tolentino, which had become final and

executory, on a given date, and another certificate of title, issued,; on the same date, to Bartolome Quines, based on a homestead patent in his favor, this Court, reversing its former decision in said case, promulgated on January 28, 1961, expressed itself as follows:

"Under Act 926 which is the law governing this case, the Director of Lands, upon receipt of a homestead application, shall summarily determine whether the land described is prima facie subject to homestead settlement, and should he find-nothing to the contrary, the applicant shall be permitted to enter the land specified (Sec. 2.). In not less than five nor more than eight years from the date of the filing of the application, final proof of residence and cultivation may be made by the applicant (Sec. 2), of which, the public shall be notified, and any person may contest the same on any of the grounds enumerated in the law (Sec. 8). Should the applicant successfully prove that he has complied with all the requirements of the law, a patent, under the name of the Government, shall he issued to him (the applicant), upon payment of the necessary fen (Sec. 3). The procedure, initiated by the applicant and acted upon by the grantor (the Government), is purely administrative[1] As this Court observed:

* * * while provision is made for notice to the public of the intention of the homesteader to apply for a patent upon final proof of occupation and cultivation of the land, and for the hearing of objections to the application upon various grounds, including the contention that the land in question was not 'unoccupied' at the time of filing the application, the statute nowhere, undertaken to declare that the decision of the Director upon such, context shall be conclusive or that the failure of the real owner to content the application shall have the effect of forfeiting his title by making the director's decision as to the public character of the land final and conclusive." (De los Reyes vs. Razon. supra.) [2]

* * * * *

"Upon the other hand, the proceedings under the Cadastral Act, at the initiative of the Government (Sec. 1, Act 2259), are judicial, Process is served by publication upon all persons who may have interest on the land, including the Government, to appear and prove or oppose the claims of ownership that may be filed therein (Sees. 8 and 9). The action is one in rem, and any decision rendered therein by the cadastral court is binding against the whole world, (Sec. 11) including the Government.

"The decision of the cadastral court, recognizing Maria Florentino's right of ownership over the land, was rendered on August 16, 1930. There being no charge, much less proof, of irregularity of the cadastral proceedings, the Government, on which said decision of the cadastral court is also binding and which is supposed to have knowledge thereof, had actually no more right to convey by homestead grant on August 29, 1930, said parcel of land to appellee Quines. The fact that the decision of the cadastral court became final only on September 25, 1930, after the patent was issued, does not alter the situation that when such patent was obtained, there was already a court adjudication in favor of Maria Florentino, binding upon the Government itself predeccssor-in-interest of Quines.

"Furthermore, a certificate of title baned on a patent even after the expiration of one year from the inssurance thereof, is still subject to certain conditions and restrictions.[3] As a mutter of fact, in appropriate cases and after prior administrative investigations by the Director of Lands, proper action may be instituted by said official which may lead to the cancellation of the patent and the title, and the consequent reversion of the land to the Government.[4] On the other hand, a certificate of title issued pursuant to Act 2259, after the laps of 1 year, becomes incontrovertible.[5] The inescapable conclusion therefore, is that, while with the due registration and issuance of a certificate of title over a land acquired pursuant to the Public Land Law, said property becomes registered in contemplation of Act 496," in view of its nature and manner of acquisition, such certificate of title, when in conflict with one obtained on the same date through judicial preceedings, must give way to the latter."[7]

Thus, a certificate of title issued pursuant to a decree of registration and a certificate of title issued in conformity

therewith are on a higher level than a certificate of title based upon a patent issued by the Director of Lands.

The amended decision of the Court of Appeals in the case at bar, eventually sustaining the contention of herein respondents-appellees, is based upon *Lucas vs. Durian*,^[8] and *Director of Lands vs. Heirs of Ciriaco Carle*.^[9]

The first case involved a controversy between: (1) Simeon Lucas, whose claim was predicted upon a homestead application approved by the Director of Lands in 1933; (2) Jose Basilio, the successor in interest of another applicant (Mariano Bautista), who had allegedly possessed the lot in question since 1923; and (3) Juan L. Durian, who relied upon the homestead application of one Ricardo Deloso (whose rights were transferred to Durian), approved by the Director of Lands in 1938. Durian got the corresponding certificate of title, after obtaining a patent in 1949 and the registration thereof in the office of the register of deeds. Alleging that the Director of Lands had ordered the issuance of a patent in his favor in 1947, Lucas filed in 1953 an action against Durian for the annulment of his aforementioned certificate of title. In disposing of the case, we used the following language:

"" * * A certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding, as long as the land disposed of is really a part of the disposable land of the public domain (*El Hogar Filipino vs. Olviga*, 60 Phil. 22; *Ramoso vs. Obligado*, 70 Phil., 86 and others), and becomes indefeasible and incontrovertible upon the expiration of one year from the date of the issuance thereof. * * * A certificate of title, be it original or a duplicate, may only be ordered cancelled under special circumstances, and one of them, is when the title is void. And a title will be considered void if it is procured through fraud, as when a person applies for the registration of a land in his name although he knows that the property belongs to another (*Bruce vs. Apurado*, 26 Phil., 581; *Angelo vs. Director of Lands*, 49 Phil., 838) ; if title is issued for a land already covered by a prior Torrens Title; when it covers land reserved for military, naval, or civil public purposes; when it covers a land which has not been brought under registration proceedings, and in the case of disposable public lands, failure on the part of the grantee to comply with the conditions imposed by law. (*Noblejas' Land Titles and Deeds*, pp. 11-13). It could be gleaned from the foregoing enumerations that the only instance when a certificate of title covering a tract of land, formerly a part of the patrimonial property of the State, could be cancelled, is for failure on the part of the grantee to comply with the conditions imposed by law, and in which case the proper party to bring the action would be the Government to which the property would revert." (Italic ours.)

Unlike said case, however, which had been brought by Lucas, the case at bar was instituted by the very government, which according to the decision in the *Lucas* case, is the proper party to bring an action to cancel a patent and a certificate of title issued in accordance therewith. Moreover, "a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding", said decision declares, "as long as the land disposed of is really part of the disposable land of the domain". When Cosme filed his homestead application on March 22, 1949, Lot No. 8091 was no longer "part of the disposable land of the public domain", for, after advertising it for sale to the highest bidder, the Director of Lands, had awarded it to Tolentino on February 15, 1928. Although prior to the issuance of a patent and its registration, the Government retains the title to the land, said award conferred upon Tolentino the right "to take possession of the land so that he could comply with the requirements prescribed by the law", before said patent could be issued in his favor.^[10] Being protected by law, under which it cannot be taken away without due process,^[11] said right had the effect of withdrawing the lands of the public domain that were "disposable" by the Director of Lands under the provisions of the Public Land Act (C. A. 141) ^[12] and it was so held in the original decision of the Court of Appeals in this case.

Upon the other hand, the case of *Director of Land vs. Heirs of Ciriaco Carle*, *supra*, was based upon that of *Lucas vs. Durian*, *supra*, and, hence, its force as precedent is similarly limited to lands of the public domain which are "disposable" by the Director of Lands. As a consequence, neither case is controlling in the issue before us, since Lot No. 8091 was no longer "disposable" by said officer when he entertained the application for homestead filed

by Cosmo on March 22, 1949, or over 21 years after the land had been awarded to Tolentino on February 15, 1928, as the highest bidder at the auction sale thereof. It may not be amiss to note that the decision in *Director of Lands vs. Heirs of Ciriaco Carle* and the resolution in the subsequent case of *Nieto vs. Quines*, holding that a certificate of title based upon a homestead patent is not identical in all respects, insofar as its effects are concerned, as a certificate of title issued pursuant to a decree of registration in cadastral proceedings, was penned by the same member of this Court, and that, should there be any conflict between both, the intent to modify pro-tanto the rule applied in the *Carle* case is to be assumed. It is only fair to note that the Court of Appeals could not have taken into consideration our aforementioned resolution in *Nieto vs. Quines*, the amended decision of said Court in the case at bar having been rendered prior to the promulgation of said resolution.

At any rate, intervenor appellee Acosta can not claim the status of an innocent purchaser for value, he having purchased Lot No. 8091 from Cosme on June 27, 1957, or over three years and a half after the commencement of this action, of which he must be deemed, therefore, to be aware, either actually or constructively.

Wherefore, the amended decision of the Court of Appeals is hereby reversed and the decision of the Court of First Instance of Isabela affirmed, with costs against respondents-appellees Braulio Cosme and Damaso A. Acosta. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regala, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Amended decision reversed.

[1] *De los Reyes vs. Razon*, 38 Phil., 480.

[2] *Italics ours*.

[3] Secs. 118, 110, 121, 122, Com. Act 141; Sec. 35 Act 926; *Campañero vs. Coloma*, 106 Phil. 993.

[4] Secs. 123 and 124, Com. 141; *Rellin vs. Cabigas*, 109 Phil. 1128.

[5] Sec. 11, Act 926, in connection with Sec. 38, Act 496.

[6] Sec. 122, Act 490.

[7] *Italics ours*.

[8] L-7856, September 23, 1957.

[9] 105 Phil., 1227.

[10] *Visayun Realty vs. Meer*, L-6763, January 31, 1955.

[11] *Balbon vs. Farrales*, 51 Phil., 498.

[12] *People vs. Lapasaran*, 100 Phil., 40; *Diaz vs. Macalinao*, 102 Phil., 999; 55 Off. Gaz., 1021.

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