

BUENAVENTURA BALBOA, PLAINTIFF AND APPELLANT, VS. CECILIO L. FARRALES, DEFENDANT AND APPELLANT.

G.R. No. 27059. February 14, 1928

Ponente: JOHNSON, J.

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JOHNSON, J.:

The material facts in this case, as disclosed by the record, may be briefly stated as follows:

- (1) Sometime in the year 1913, the plaintiff Buenaventura Balboa filed with the Bureau of Lands an application for homestead, No. 10619, under the provisions of Act No. 926, covering a tract of land situated in the barrio of Culis, municipality of Hermosa, Province of Bataan, containing 14 hectares, 49 ares and 77 centares.
- (2) Five years thereafter, or in 1918, Balboa submitted final proof, showing his residence upon, and cultivation of said land, as well as his compliance with all of the other requirements of section 3 of said Act No. 926, which final proof was approved by the Director of Lands on February 15, 1918 (Exhibit 3). On July 1, 1919, said Act No. 926 was repealed by Act No. 2874.
- (3) On September 10, 1920, for over a year after Act No. 2874 had gone into effect, the homestead patent for said land, otherwise known as certificate of title No. 91 (Exhibit A) was issued in favor of Buenaventura Balboa by the Governor-General of the Philippine Islands.
- (4) On August 11, 1924, said Buenaventura Balboa, for and in consideration of the sum of P950, sold said land to the defendant Cecilio L. Farrales (Exhibit 2); and on October 16, 1924, the latter secured in his name transfer certificate of title No. 650 of said land (Exhibit B).

On March 6, 1926, the plaintiff commenced the present action for the purpose of having said sale declared null and void on the ground of lack of consent on his part and fraud on the part of the defendant, and on the further ground that said sale was contrary to, and in violation of the provisions of section 116 of Act No. 2874.

After a careful consideration of the evidence adduced during the trial of the cause the Honorable Leopoldo Rovira, judge, arrived at the conclusion that the deed of sale in question (Exhibit 2) had been duly executed by the plaintiff. He held, however, that said deed was null and void, in view of the fact that it was executed before the lapse of five years from the date of the issuance of the certificate of title in favor of Buenaventura Balboa, in violation of the prohibition contained in section 116 of Act No. 2874.

The pertinent parts of the decision read as follows:

"Como cuestion basica, se discute en el presente asunto la validez del documento Exhibit 2, o sea el traspaso hecho por el demandante al demandado referente al terreno en cuestion. El demandante sostiene que, bajo el articulo 116 de la Ley No. 2874, el traspaso es nulo por cuanto tuvo lugar el 11 de agosto de 1924, esto es sin haber transcurrido todavia los cinco años siguientes a la fecha en que fue expedido el certificado de titulo No. 91 que lo fue el 10 de septiembre de 1920; el demandado, por el contrario, sostiene, como punto de discusion legal, que el documento de traspaso Exhibit 2 no cae bajo las disposiciones de la Ley No. 2874, sino dentro de

las disposiciones de la Ley No. 926 y que bajo esta Ley no existia tal limitacion de venta dentro de los cinco años siguientes a la fecha de la expedicion del titulo de homestead, y que habiendo sido la solicitud de homestead aprobada el 15 de febrero de 1918, aun contando los cinco años siguientes, resultarla que desde el 15 de febrero de 1918 hasta el 11 de agosto de 1924 han transcurrido mas de cinco años.

"De lo expuesto, el Juzgado llega a la conclusion de que el Exhibit 2 es nulo e ineficaz, por cuanto que la venta fue otorgada fuera de lo prescrito en el articulo 116 de la Ley No. 2874, que procede declarar nulo dicho documento Exhibit 2, y, consiguientemente, el certificado de transferencia de titulo 650."

In accordance with the foregoing conclusion the trial judge rendered a judgment in favor of the plaintiff and against the defendant, ordering the latter to return to the plaintiff the land in question, and the plaintiff to return to the defendant the price received for said land, aggregating P652.69, with interest at the rate of 12 per cent. From that judgment both parties appealed.

The principal question raised in this appeal is whether the validity of the sale of the land in question should be determined under the provisions of Act No. 926 or under those of Act No. 2874. In other words, which of the two Acts—926 and 2874—shall be applied in determining whether the sale in question is valid or not?

The land in question was acquired by Buenaventura Balboa as homestead under the provisions and pursuant to the requirements of Act No. 926. He filed his application and complied with all of the requisites to the acquisition of said homestead, in conformity with the provisions of said Act No. 926. In 1918 and prior to the repeal of said Act he submitted his final proof, showing his residence upon, and cultivation of the land, as well as his compliance with all of the other requirements of the law, and said final proof was approved by the Director of Lands on February 15, 1918. In other words, Buenaventura Balboa, had shown, to the satisfaction of the Government, that he had performed all of the acts required of an applicant for homestead, and, under the provisions of section 3 of Act No. 926, he became entitled to a homestead patent or certificate of title to the land covered by his application.

Section 3 of Act No. 926 provides, inter alia, that upon the filing of final proof by the applicant and the approval thereof by the Director of Lands, "he (the applicant) shall be entitled to a patent" or certificate of title. Therefore, on February 15, 1918, after Buenaventura Balboa had submitted his final proof and after the same had been approved by the Government, and while Act No. 926 was still in force, he became the owner of the land and "entitled to a patent." At least on that date his right to the land, as owner, ripened into a vested right. It was no longer expectant as depending on the continuance of existing circumstances, or contingent as depending on some events or the performance of some conditions.

"Rights are vested when the right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest." (12 C. J., sec. 485, p. 955.)

Vested right "is some right or interest in property which has become fixed and established and is no longer open to doubt or controversy." (Downs vs. Blount, 170 Fed. Rep., 15, 20.)

The fact that the homestead patent or certificate of title No. 91 was issued on September 10, 1920, after the repeal of Act No. 926, and under the provisions of section 116 of the repealing Act No. 2874, cannot prejudice the vested right acquired by Buenaventura Balboa under the provisions of the former Act. The issuance of the certificate of title was a mere ministerial act, and the certificate, an outward symbol of his vested right to the land, of which he was virtually recognized as owner by the Government on February 15, 1918.

In the case of *United States vs. Freyberg* (32 Fed. Rep., 195), where the right of a homesteader was involved, it was held that where the right to a patent for land has become vested in a purchaser the Government holds the legal title in trust for the purchaser until the patent is issued. Again in the case of *Stark vs. Starr* (6 Wallace [U.

S.J., 402), the Supreme Court of the United States held that where the right to a patent is once vested, it is treated by the Government, when dealing with public lands, as equivalent to a patent issued.

"A party who has complied with all the terms and conditions which entitle him to a patent for a particular tract of public land acquires a vested interest therein, and is to be regarded as the equitable owner thereof." (Wirth vs. Branson, 98 U. S., 118.)

"Where the right to a patent has once become vested in a purchaser of public lands, it is equivalent, so far as the Government is concerned, to a patent actually issued. The execution and delivery of the patent after the right to it has become complete are the mere ministerial acts of the officers charged with that duty." (Simmons vs. Wagner, 101 C. S., 260.)

The moment the plaintiff had received a certificate from the Government and had done all that was necessary under the law to secure his patent, his right had become vested before the patent was issued. His right had already vested prior to the issuance of the patent, and his rights to the land cannot be affected by a subsequent law or by a subsequent grant by the Government to any other person. (Herron vs. Dater, 120 U. S., 464.)

The delay in the issuance of the patent cannot affect the vested right of the homesteader. (Murphy vs. Packer, 152 U. S., 398; Belk vs. Meagher, 104 U. S., 279; Sullivan vs. Iron Silver Mining Co., 143 U. S., 431; McDaniel vs. Apacible and Cuisia, 42 Phil., 749.)

A perfected valid appropriation of public lands operates as a withdrawal of the tract from the body of the public domain and, so long as such appropriation remains valid and subsisting, the land covered thereby is deemed private property. A perfected homestead, under the law, is property in the highest sense, which may be sold and conveyed and will pass by descent. It has the effect of a grant of the right to present and exclusive possession of said land. A valid and subsisting perfected homestead, made and kept up in accordance with the provisions of the statute, has the effect of a grant of the present and exclusive possession of the land. Even without a patent, a perfected homestead is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is in the Government. Such land may be conveyed or inherited.

In the United States and in each and every State of the Union vested rights are safeguarded by the 14th Amendment to the Federal Constitution, which provides that no State "shall deprive any person of life, liberty or property without due process of law."

"The state has no power to divest or to impair vested rights, whether such an attempt to do so be made by legislative enactment, by municipal ordinance, or by a change in the constitution of the state. This result follows from prohibitions contained in the constitutions of practically all the states. Before the adoption of the fourteenth amendment there was no prohibition in the Constitution of the United States which would prevent the states from passing laws divesting vested rights, unless these laws also impaired the obligation of contract, or were ex post facto laws; but vested property rights are now protected against state action by the provision of the fourteenth amendment that no state 'shall deprive any person of life, liberty or property without due process of law.' " (12 C. J., sec. 486, pp. 956, 957.)

Section 3, paragraph 1, of the Jones Law provides: "That no law shall be enacted in said Islands which shall deprive any person of life, liberty, or property without due process of law, etc." Thus, in this jurisdiction, vested rights are also projected from impairment by express constitutional provision. Therefore, the right vested in Buenaventura Balboa by Act No. 926 cannot be divested, impaired or restricted by section 116 of Act No. 2874. Said right should be governed entirely and exclusively by the provisions of Act No. 926, under which it was acquired.

Now, the vested right of Buenaventura Balboa to his homestead land necessarily carries with it the right to

alienate and dispose of the same. The only prohibition contained in Act No. 926 against alienation of homestead acquired under said law, appears in section 4 thereof, which reads as follows: "No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuance of a patent therefor." It follows, therefore that the sale of the land in question by the plaintiff Buenavenutra Balboa to the defendant Cecilio L. Farrales does not infringe said prohibition, and consequently said sale is valid and binding, and should be given full force and effect.

Section 116 of Act No. 2874, which prohibits the sale of homestead land during the period of five years subsequent to the issuance of the patent or certificate of title upon which rests the decision of the court a quo, cannot be invoked to annul the sale in question. Said prohibition, if applied in the present case, would impair and diminish the vested rights acquired under Act No. 926, contrary to the uniform doctrine followed in the United States, and in violation of the express provisions of section 3 of the Jones Law.

The right, title and interest of the appellant having become vested under the provisions of Act No. 926, his rights cannot be affected by any law passed subsequent thereto. The provisions of Act No. 2874 cannot be invoked for the purpose of defeating the vested right acquired by the appellant before its adoption.

For all of the foregoing reasons, the judgment appealed from should be and is hereby reversed, and it is hereby ordered and decreed that the defendant be absolved from all liability under the complaint, with costs against the plaintiff-appellant. So ordered.

Malcolm, Villamor, Ostrand, and Villa-Real, JJ., concur.

CONCURRING

STREET, J.:

I concur and wish to point out the difference between the present case and that of *Beach vs. Pacific Commercial Co. and Sheriff of Nueva Ecija* (49 Phil., 365), which turned upon the interpretation of the same provisions of law as those that are decisive of the present case, namely, section 4 of Act No. 926 and section 116 of Act No. 2874.

The difference is that in the *Beach* case an attempt was made to seize the property under process of law to satisfy an obligation created within five years after the issuance of a patent; and we held that, under section 116 of Act No. 2874, the property was exempt. In the case before us the owner of the land, in the exercise of his power as such, had voluntarily alienated the property; and the court now holds that the act of alienation was effective notwithstanding the immunity conferred by section 116 of Act No. 2874. Though the distinction thus involved may appear to be somewhat refined, I believe it to be sound, and I have no hesitation in giving my adherence to the present decision, especially in view of the fact that soon after Act No. 2874 was passed the Attorney-General ruled that a voluntary alienation of a homestead, under the conditions involved in this case, would be valid. A ruling contrary to that now made by us would have the undesirable effect of interfering with rights that have been acquired in good faith by purchasers relying upon the interpretation thus placed upon the law by the Attorney-General.

In the opinion in *Beach vs. Pacific Commercial Co. and Sheriff of Nueva Ecija*, supra, we used the following language in calling attention to the difference between the situation then before the court and that presented in the case now before us:

"The error underlying the contention of the appellee possibly has its origin in a failure to distinguish between two entirely different ideas expressed in section 116 of Act No. 2874. The first has reference to the power of

the homesteader to encumber or alienate the homestead by his voluntary act, while the second has reference to the subjection of the property to the satisfaction of debts against the will of the homesteader. There might possibly be something in the contention of the appellee that the homesteader's right became vested when he submitted his final proof if the case were one where he had attempted to alienate the property by voluntary exercise of the power of an owner; but we are not called upon to pass upon this point. We are here concerned exclusively with the power of the creditor to seize the property of the owner against his will. That the property cannot be so taken follows in our opinion necessarily from the language of section 116."

Our present decision recognizes the validity of this distinction suggested in the paragraph above quoted, and it will thus be seen that there is no inconsistency between the decision now made and the conclusion reached in the case cited.

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