JOAQUIN VILLACORTA, PLAINTIFF AND APPELLANT, VS. VICENTE ULANDAY, DEFENDANT AND APPELLEE.

G.R. No. 48625. August 24, 1942

Ponente: OZAETA, J.

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OZAETA, J.:

The land involved in this litigation was granted by the Government of the Philippine Islands to Domingo Barinto by virtue of homestead patent No. 21064, issued in his favor by the Governor General on December 16, 1932. The patent was transcribed in the registration book for the Province of Nueva Ecija on April 12, 1937, whereupon the corresponding certificate of title was issued by the register of deeds. On August 26, 1937, a notarial deed of sale of said land was executed by Domingo Barinto in favor of the.defendant Vicente Ulanday, who did not register said document. The authenticity of that deed of sale was subsequently impugned by Domingo Barinto, who claimed to have signed it in the belief that it was a mere power of attorney.

On March 13, 1939, Domingo Barinto sold the land in question to the plaintiff Joaquin Villacorta in consideration of the sum of P1,600. On the same date Villacorta registered the deed of sale and obtained transfer certificate of title No. 14565 in his name.

The present action was instituted by Villacorta in the Court of First Instance of Nueva Ecija on April 21, 1939, to recover the possession of said land from the defendant Ulanday and to enjoin the latter from molesting the plaintiff in the possession and enjoyment thereof. The trial court dismissed the complaint, holding that the purchase of the land in question by the plaintiff 'was null and void because it took place within five years from the date of the registration of the homestead patent of the vendor, in contravention of section 116 of Act No. 2874, which provides as follows:

> "SEC. 116. Except in favor of the Government or any of its branches, units, or institutions, or legally constituted banking corporations, lands acquired under the free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period; but the improvements or crops on the land may he mortgaged or pledged to qualified persons, associations, or corporations."

The main question raised in this appeal is whether the five-year period mentioned in section 116 should be counted from the date of the issuance of the patent, as contended by appellant, or from the date of the registration of the patent in the office of the register of deeds, as held by the trial court. The trial "court followed the opinion rendered by the Court of Appeals on July 14, 1939, in the case of Bundoc vs. Hilario, C. A.—G. R. No. 2267 (40 Off. Gaz., 4th Sup., page 176). But in the case of Register of Deeds of Nueva Ecija vs. Director of Lands, decided on June 13, 1941 (40 Off, Gaz., page 954), that same question was squarely presented to this Court, and we there held that section 116 of Act No. 2874, as amended by Act No. 3617, clearly refers to the date of the issuance of the patent or grant and not to the date of the certificate of title, as the starting point from which to count the five-year period. We reaffirm that opinion as a correct interpretation of the law. As a matter of fact, the homestead

patent issued in this case (Exhibit A) expressly recites that the grant is "subject to the provisions of sections 116, 119, 120, and 122 of Act No. 2874 of the Philippine Legislature, as amended, which provide that * * * the land hereby acquired shall be inalienable and shall not be subject to encumbrance for a period of five. (5) years from the date of this patent * * *". Thus the administrative and executive officials themselves who were in charge of the enforcement of the Public Land Act appear to have given the same interpretation to section 116 thereof as that given by this Court in the case above cited.

We may add that the Court of Appeals and the trial court might have been misled by the Spanish text of section 116, which says:

> "* * * durante los cinco añoa signientes a la fecha de la expedicion del titulo o concesion

The English text, which is controlling, says:

> "* * *for a term of five years from and after the date of issuance of the patent or grant * * *"

The use of the word "titulo" instead of "patente" in the Spanish translation might have given rise to the erroneous supposition that what was referred to was the certificate of title and not the homestead patent.

The appellee Vicente Ulanday acknowledges that the purchase claimed to have been made by him of the land in question from Domingo Barinto was null and void because it took place within the five years following the issuance of the homestead patent; but he contends in this appeal that because of that sale made to him by the patentee Domingo Barinto in violation of sections 116 and 122 of the Public Land Act, the land had automatically reverted to the Government and therefore Barinto had no right or title to transfer to the plaintiff Joaquin Villacorta. We cannot accept that view. We think the reversion contemplated in section 122 of the Public Land Act is not automatic. The Government has to take action to cancel the patent and the certificate of title in order that the land involved may be reverted to it. Moreover, Ulanday as a party to an unlawful contract cannot take advantage thereof in order to attain in practice what the law prohibits.

It results then that there were two sales of the same land to two different parties: one in favor of the defendant (assuming, without deciding, that Barinto really sold the land to him), which supposed sale, however, is admittedly void because it was made within five years from the date of the issuance of the homestead patent; and another in favor of the plaintiff, which we declare valid because it was made after the lapse of five years from the said date. Consequently, the title of the plaintiff must be upheld.

The judgment appealed from is reversed and another judgment is hereby rendered in favor of the plaintiff and against the defendant, declaring valid the title of the plaintiff to the land in question and ordering the defendant to deliver the possession of said land to the plaintiff, he said defendant being hereby perpetually enjoined and prohibited from interfering with or in any way molesting the plaintiff in the possession and enjoyment of said land, with costs in both instances against the defendant. So ordered.

Yulo, C. J., Moran, Paras, and Bocobo, JJ., concur.

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