

EMILIO ZOZOBRADO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, ROSALIO DURAN AND RESTITUTA T. DURAN, RESPONDENTS.

G.R. No. 51193. January 30, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

The case at bar calls simply for the application of the provisions of Presidential Decrees Numbered 967 and 1304,[1] amendatory of Republic Act No. 477.[2]

R.A. No. 477 was enacted for the purpose of providing for the administration and disposition of properties (including the proceeds and income thereof) transferred to the Republic of the Philippines under the Philippine Property Act of 1946 and R.A. No. 8, as well as the public lands (and improvements thereon) transferred to the National Abaca & Other Fibers Corporation under Executive Order No. 29 dated October 25, 1946 and Executive Order No. 99 dated October 22, 1947.

Rosalio Duran applied for and was in due course awarded on November 13, 1952, a parcel of land in accordance with the provisions of R.A. No. 477. The land is situated in Tacunan, Tugbok, Davao City, and has an area of 45,978 square meters.[3] The award to Duran carried with it a restriction, set out in Section 8 of the Act, that the land thus acquired "shall not be subject to encumbrance or alienation from the date of the award *** and for a term of ten years from and after the date of issuance of the certificate of title." The restriction notwithstanding, Duran and his wife, Restituta, executed on November 3, 1954 a Deed of Sale of Rights and Improvements over the parcel of land awarded to them in favor of Emilio Zozobrado, in consideration of the price of P3,000.00, and the assumption by Zozobrado of the obligation to pay the balance of the price of the property to the Board of Liquidators which was in charge of the implementation of R.A. No. 477.[4]

Zozobrado took possession of the land and planted coconut trees and other seasonal crops thereon. He paid the realty taxes corresponding thereto in the name of Duran, and completed payment of the price of the land to the Board of Liquidators pursuant to the agreement between said Board and Duran. He succeeded in causing the issuance of a sales patent (No. 523) over the property, in the name of Rosalio and Restituta Duran, on May 19, 1966, and the registration thereof in the Registry of Deeds on September 2, 1967.

After the sale, Duran and his family left Davao City, residing first at Bohol and later, at Zamboanga. He did not return to Davao City until 21 years later, in 1975.[5]

On Duran's return to Davao City in 1975, Zozobrado requested him to execute the necessary deed of conveyance so that the title to the property might be finally placed in Zozobrado's name.[6] Duran's response could not but have dismayed Zozobrado. Duran not only refused Zozobrado's request; he procured the release to himself by the Register of Deeds of the title to the property, despite Zozobrado's objections, and even offered the land for sale to a certain Nilo Besa who, however, refused to deal with him on learning of the previous sale of the same property to Zozobrado.[7]

Duran capped his perfidy by instituting, on November 3, 1975, a suit against Zozobrado, for declaration of ownership, quieting of title, recovery of possession and damages, alleging that he had been paying the real estate taxes on the property; that in 1970 he had paid Zozobrado the sum of P7,200.00 purportedly covering reimbursement of the price paid by the latter in virtue of the sale to him of the property in 1954 as well as the value of the improvements introduced by Zozobrado thereon; that after Duran's reacquisition of the land, he had acceded to Zozobrado's request to be allowed to stay on the property until he could locate a place to transfer his residence.[8]

Duran sought to substantiate these averments by his testimony during the trial. But although the Trial Court pronounced him a "worthy descendant of that biblical character named Ananias", and declared him "unworthy of credence and belief," on the basis of its close observation of his demeanor while testifying,[9] said Court nonetheless felt itself unable to make an adjudication in Zozobrado's favor in view of the fact that the sale by Duran to Zozobrado was quite evidently in violation of the prohibition laid down in Section 8 of R.A. No. 477, earlier adverted to, against the "encumbrance or alienation (of the land) from the date of the award ** and for a term of ten years from and after the date of issuance of the certificate of title." It therefore rendered judgment on May 3, 1977, the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING, judgment is hereby rendered declaring the Deed of Sale of Rights & Improvements marked Exhibit 'D' null and void and ordering defendant to turn over the possession of the Lot No. 21, Psd-32969 covered by Original Certificate of Title No. T-2458 located at Tacunan, Tugbok, Davao City, to plaintiffs upon payment of the sum of THREE THOUSAND PESOS (P3,000.00), AND THE SUM OF THREE HUNDRED THREE PESOS & 56/100 (P303.56) paid as realty taxes.

"Defendant's counterclaim against herein plaintiffs is hereby disallowed.

"Without costs."[10]

This decision the Court of Appeals affirmed in toto on May 2, 1979, on appeal taken by Zozobrado.[11] The latter moved for reconsideration, but this was denied on June 27, 1979.[12] Zozobrado seasonably appealed to this Court by certiorari, in accordance with Rule 45 of the Rules of Court. Emilio Zozobrado has since died, and been duly substituted in the case by his wife, Petronila Zozobrado.[13]

There is no question that the execution of the sale in question on November 3, 1954 was a transgression of the provisions of Section 8 of R.A. No. 477 prohibiting for a definite period its "encumbrance or alienation." But said Section 8 was amended by P.D. No. 968 on July 24, 1976, and again by P.D. No. 1304 on February 24, 1978[14] to read as follows:

"SEC. 8. Any provision of law, executive order, rules or regulations to the contrary notwithstanding, an applicant who has acquired land pursuant to the provisions of this Act and to whom a certificate of title has been issued covering such land, may sell, cede, transfer, or convey his rights and interests therein, including the permanent improvements on the land, to any interested party; and all previous sales, transfers, conveyances and encumbrances regarding such land including the permanent improvements made and consummated prior to July 24, 1976, are hereby confirmed, ratified and validated."[15]

It is clear that the defect in the sale by Duran to Zozobrado was cured and removed by the above mentioned presidential decrees; and under the facts, Zozobrado is entitled to the full ownership of the land in question, as well as to recover the damages caused to him by the Durans' perfidious acts in attempting to renege on a transaction voluntarily entered into by them.

WHEREFORE, the appealed judgment is reversed and another entered, declaring Emilio Zozobrado and Petronila Zozobrado the owners in fee simple of the land covered by Sales Patent No. 523 issued by the Board of

Liquidators in virtue of the provisions of R.A. No. 477, as amended, as well as by Original Certificate of Title No. T-2458 of the Register of Deeds of Davao City; commanding the private respondents Rosalio Duran and Restituta T. Duran, or their heirs, successors or assigns, to execute a deed of absolute sale ceding, transferring and conveying full ownership of said land unto and in favor of Emilio Zozobrado and Petronila Zozobrado, or the heirs, successors and assigns of either of them, free from liens and encumbrances; and ordering said respondents Rosalio Duran and Restituta T. Duran, solidarily, to pay to Emilio Zozobrado and Petronila Zozobrado, or their heirs, successors and assigns, P10,000.00 as nominal damages, P5,000.00 as exemplary damages, and P5,000.00 as attorney's fees. Costs against said private respondents.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Cruz, Feliciano, and Gancayco, JJ., concur.

[1] Effective on July 24, 1976 and February 24, 1978, respectively.

[2] Effective June 9, 1950.

[3] Rollo, p. 29.

[4] Rollo, pp. 29, 30.

[5] Rollo, p. 30.

[6] Rollo, p. 30.

[7] Rollo, p. 30; also, p. 37: Record on Appeal.

[8] Rollo, p. 37: Record on Appeal, pp. 1-4.

[9] Rollo, p. 37: Record on Appeal, p. 23.

[10] Rollo, p. 37: Record on Appeal, p. 25.

[11] Rollo, pp. 29-34.

[12] Rollo, p. 35.

[13] Rollo, pp. 180-181.

[14] SEE Footnote No. 1, *supra*.

[15] Underlining supplied.

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