

ROMUALDO AVELLANEDA, LEONA BRACERO, PASCUAL AVELLANEDA AND PLACIDA MERTO, PETITIONERS, VS. COURT OF APPEALS, MARIA REGADO, DALISAY VILLAMANTO, AMADO VILLAMANTO AND NORMA VILLAMA...

G.R. No. 56744. May 31, 1985

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This case involves a patent and certificate of title issued over a homestead after the death of the applicant. The question posed is: who succeeds the applicant when he dies? The applicable provision is Section 105, Commonwealth Act No. 141, which reads:

"SEC. 105. If at any time the applicant or grantee shall die before the issuance of the patent or the final grant of the land, or during the life of the lease, or while the applicant or grantee still has obligations pending towards the Government, in accordance with this Act, he shall be succeeded in his rights and obligations with respect to the land applied for or granted or leased under this Act by his heirs in law, who shall be entitled to have issued to them the patent or final concession if they show that they have complied with the requirements therefor, and who shall be subrogated in all his rights and obligations for the purposes of this Act. (italics supplied)

It will be noted that what is being transmitted to the deceased applicant's heirs-in-law are rights and obligations. Thus, when a homestead applicant dies, two questions of fact arise: who are the heirs-in-law; the second is, who are the heirs-in-law who, after the death of the applicant, have complied with the requirements for the issuance of the homestead patent.

The chronology of the relevant facts may be briefly stated as follows:

Eusebio Villamanto (DECEDENT) had applied for a homestead in Bordeos, Tayabas, on a date that does not appear of record. He died on September 22, 1939, survived by Maria Regado, his WIDOW, and by three (3) minor CHILDREN. Dalisay, aged 5 years; Amado, aged 3 years; and Norma, aged 1 year. In the Resolution of March 31, 1981 of the Appellate Court, it was confirmed that in 1961, their ages were approximately 27. 25 and 23 years. These four are the DECEDENT'S heirs-in-law.

The land applied for was surveyed on August 24, 1940 and was approved on December 20, 1940. On January 14, 1941, the Director of Lands issued a patent in the name of "The Heirs of Eusebio Villamanto." After the issuance of the patent, Original Certificate of Title No. 7916 (Exhibit "F") was issued by the Register of Deeds of Tayabas (now Quezon) for a parcel of agricultural land with an area of 22.559 hectares at Calutcot, Pandan, Bordeos, Quezon, in the name of the "Heirs of Eusebio Villamanto."

On May 14, 1954, the WIDOW sold one-fourth (1/4) of the homestead lot involved herein (5.5114 has.) to Julita Aveno Vda. de Penamante in a public instrument entitled "Bilihan Tuluyan o Lampasan" (Exhibit "C") for P1,500.00.

On August 25, 1954, the WIDOW and her three (3) children. Dalisay in her own behalf and on that of the minors Amado and Norma, executed an extra judicial partition of the homestead entitled "Kasulatan na Paghihiwatig" (Exhibit "E") [1954 PARTITION], with the WIDOW being adjudicated one-half (1/2) of the land, and the other half being adjudicated to the CHILDREN. It was stated that the homestead lot was conjugal property of the DECEDENT and the WIDOW.

On September 23, 1954, after the 1954 PARTITION, the WIDOW sold another one-fourth (1/4) of the homestead (5.5139 has.) to Pablo Penamante and Crispina Coronacion in a notarial instrument entitled "Kasulatan ng Biling Mabibiling Muli" (Exhibit "D") for P3,030.00.

In a public instrument dated September 18, 1959 entitled "Pagbibilihan ng Lampasan at Tuluyan" (Exhibit "A"), the vendees, Julita Aveno Vda. de Penamante and the spouses Pablo Penamante and Crispina Coronacion sold the one-half (½) portion of the land covered by OCT No. 7916, which they had acquired from the WIDOW, to the spouses Romualdo Avellaneda and Leona Bracero, and Pascual Avellaneda and Placida Merto, the petitioners herein, for P5,000.00, who thereafter have been paying the corresponding realty taxes therefor. It is admitted that the total portion allocated to petitioners Romualdo Avellaneda and Leona Bracero was two-thirds (2/3), and to petitioners Pascual Avellaneda and Placida Merto, one-third (1/3) of 11.0253 hectares, or one-half of the homestead lot as sold to their predecessors-in-interest by the WIDOW.

On July 17, 1961, the WIDOW and her three children filed in the Court of First Instance of Quezon, a petition for the issuance of a second owner's duplicate copy of OCT No. 7916, which they alleged to have been lost.

Upon issuance of the new duplicate title, the WIDOW and her three (3) children executed another Deed of Extrajudicial Partition entitled "Kasulatan ng Pagbabahaging Labas sa Hukuman ng AriariangNaiwanngNamataynaEusebio Villamanto" (Exhibit "U" or Exhibit "5") on August 21, 1961 (the 1961 PARTITION). This time, the WIDOW was adjudicated one-fourth (1/4) of the homestead lot, the balance being adjudicated one-fourth (1/4) each to the children. The 1961 PARTITION was registered on September 18, 1961, and TCT No. T-44015 (Exhibit "2") was issued in their names in the proportions therein stated.

Sometime in November, 1961, petitioners discovered that a second duplicate title had been issued to the WIDOW and her three children and that they were attempting to mortgage the property to the DBP. Petitioners then instituted Civil Case No. 565 in the Court of First Instance of Quezon for the protection of their rights to one-half (½) of the homestead lot.

The Trial Court rendered judgment on January 31, 1974, declaring the sale to petitioners valid only to the extent of 5.5114 hectares, or one-fourth (1/4) of the entire property, and ordered them to surrender the other one-fourth (1/4) to the WIDOW and CHILDREN.

The Court of Appeals subsequently affirmed the Trial Court's judgment on November 13, 1979. Hence, this petition for review.

The Appellate Court's judgment was based on the PREMISE that the homestead lot was not conjugal property and was inherited by intestacy by the WIDOW and her three children. The Appellate Court was distinctly of the opinion that the WIDOW'S "successional rights to the property as well as those of the children must be governed by the old Civil Code pursuant to which Maria Regado was only entitled to usufructuary rights over the hereditary portion that pertained to the children." The PREMISE, except for the fact that the homestead was not conjugal, should be untenable because, as hereinafter explained, the WIDOW should be deemed the sole owner of the homestead lot. The lower Courts took no account of the factor of "obligations" in the requirement that an heir-in-law has to comply with in respect of the obligations left by the deceased applicant for the issuance of a

homestead patent.

It should be recalled that the DECEDENT died in 1939. The land applied for was surveyed on August 24, 1940 and was approved on December 20, 1940. On January 14, 1941, the Director of Lands issued the patent in the name of the Heirs of Eusebio Villamanto. Because the CHILDREN in 1939-1941, were still of tender ages, it has to be concluded that it was the WIDOW, among the DECEDENT'S heirs-in-law, who alone had complied with the requirements for the issuance of the patent. The Public Land Law[1] provides that the applicant shall prove to the satisfaction of the Director of Lands that he has resided continuously for at least one year in the municipality in which the land is located or in the adjacent municipality, and has improved and cultivated at least one-fifth of the land continuously for a period of not less than one nor more than five years from and after the date of approval of the application, and that no part of said land has been alienated or encumbered, before a certificate or patent is issued. The right of the homesteader to the patent does not become absolute until after he has complied with all the requirements of the law.[2] An applicant may be said to have acquired a vested right over a homestead only upon the presentation of the final proof and its approval by the Director of Lands.[3] Hence, the patent should have been issued in the WIDOW'S name alone, since it is apparent that only she could have complied with the above requirements as the DECEDENT died before completing them.

Such being the case, and to settle this controversy in a definite manner, we are holding that the 1954 PARTITION executed before a Notary Public (Exhibit "E") should be considered as an assignment made by the WIDOW, in favor of her CHILDREN of one-half (½) of the homestead lot.[4] Further, that the two sales made by the WIDOW in 1954 to the predecessors-in-interest of the petitioners are valid, while the 1961 PARTITION should be annulled, particularly considering that the WIDOW could not but have known that she had already sold her one-half (½) share under the 1954 PARTITION "to petitioner's predecessors-in-interest.

WHEREFORE, the appealed Decision of the Appellate Court is hereby set aside and judgment is entered as follows:

(a) The Register of Deeds of Quezon is hereby ordered to cancel TCT No. T-44015 and, in lieu thereof, to issue a substituting certificate of title in the names of registered owners as follows: Spouses Romualdo Avellaneda and Leona Bracero, 2/6; Spouses Pascual Avellaneda and Placida Merto, 1/6; Dalisay Villamanto, 1/6 as her paraphernal property; Amado Villamanto, 1/6 as his capital; and Norma Villamanto, 1/6 as her paraphernal property.

(b) The petitioners may cause the homestead lot to be subdivided into three lots, at the expense of private respondents jointly and severally. One lot shall cover 2/6 of the property corresponding to the area assigned to the Spouses Romualdo Avellaneda and Leona Bracero; and second lot shall cover 1/6 of the property corresponding to the area assigned to the Spouses Pascual Avellaneda and Placida Merto; and the third lot shall cover 3/6 remainder of the property, to correspond to Dalisay, Amado and Norma Villamanto. If the Villamanto co-owners should so desire, their 3/6 of the property can also be subdivided into three lots of equal areas, with one lot to be apportioned to each of them. The registration of the subdivision plan, and the issuance of new titles, shall also be for the joint and several account of private respondents.

(c) Private respondents are hereby held liable, jointly and severally, to petitioners in the amount of P-5,000.00 as attorney's fees. Costs in all instances are hereby taxed against private respondents, also jointly and severally.

SO ORDERED

Teehankee (Chairman), Relova, De la Fuente, and Alampay. JJ., concur.

Gutierrez, Jr., J., took no part.

Plana,J., on official leave.

[1] Section 14, C.A. No. 141.

[2] Vda. de Delizo vs. Dehzo. 69 SCRA 216 (1976).

[3] Ingaran, el al. vs. Ramelo. et al., 107 Phil. 498 (1960).

[4]Article 1625. Civil Code.

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