

**REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE DIRECTOR
OF LANDS, PLAINTIFF-APPELLEE, VS. ENRIQUE V. ATENCIO AND
THE REGISTER OF DEEDS OF DAVAO DEL SUR,
DEFENDANTS-APPELLANTS.**

G.R. No. 59228. October 27, 1989

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This case was certified to the Supreme Court by the Court of Appeals because it involves a question of law: the effect of the amendment of Section 8, R. A. 477 which prohibited the sale or encumbrance of land acquired under the provisions of said act within a period of ten (10) years from the issuance of the certificate of title.

The antecedent facts are not disputed.

In October 1950, the National Abaca and Other Fibers Corporation (NAFCO for short) sold to the defendant, Dr. Enrique V. Atencio, Lot No. 179 with an area of 4.55 hectares in the Guihing Plantation in Padada, Davao del Sur, per deed of sale (Exh. B), payable by installments over a period of ten (10) years. The law authorizing NAFCO to sell lots to qualified applicants is Republic Act 477 which was approved on June 9, 1950. Section 8 of R. A. 477 provided:

"SEC. 8. Except in favor of the Government or any of its branches, units, or institutions, land acquired under the provisions of this Act or any permanent improvements thereon shall not be subject to encumbrance or alienation from the date of the award of the land or the improvements thereon and for a term of ten years from and after the date of issuance of the certificate of title, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of such period.

"Any occupant or applicant of lands under this Act who transfers whatever rights he has acquired on said lands and/or on the improvements thereon before the date of the award or signature of the contract of sale, shall not be entitled to apply for another piece of agricultural land or urban, homesite or residential lot, as the case may be, from the National Abaca and Other Fibers Corporation; and such transfer shall be considered null and void."

Hence, one of the conditions of the sale of Lot 179 to Dr. Atencio (Exh. B) prohibits him from selling or encumbering the property:

"(b) The VENDEE shall not sell and/or encumber this property within a period of ten (10) years from the issuance of the Certificate of Title except by way of mortgage to a Government Banking Institution for the sole purpose of rehabilitating his major crops, abaca and/or coconuts."

On November 2, 1964, a sales patent was issued to Dr. Atencio. On November 16, 1964, he received OCT No. P-16675 (Exh. C) which contained the aforementioned prohibition.

However, as early as 1956, or before the defendant received a title for Lot 179, he had executed a "Sale of Fruits

(Harvest)" of Lot 179 in favor of Carmen Restauro and two others (Exh. D), for a consideration of P3,000 over a period of five years. In 1961, he executed a "Sale of Rights with the Right of Repurchase" (Exh. E), in favor of Esteban Salutillo over the same lot, for the sum of P4,000.

In 1962, defendant further executed a document, entitled "Transfer of Rights" (Exh. F), over the lot for the sum of P7,500 in favor of Santos Vda. de Salutillo. In all these instruments, he delivered the possession of the land to the transferee-vendee.

In September 1969, Dr. Atencio filed a complaint (Civil Case No. 111) in the CFI of Davao del Sur against Santos Vda. de Salutillo, widow of Esteban Salutillo, to annul and/or reform the above documents. The lower court declared the transactions null and void in view of the prohibition in Section 8, R.A. 477 (NAFCO LAW) which prohibits the encumbrance or alienation of lands acquired under that law within a term of ten (10) years from the issuance of the certificate of title. The court in Civil Case No. 111 ordered the return of Lot 179 to Dr. Atencio (Appellant's Brief, p. 4).

In September 1974, plaintiff Republic of the Philippines filed a complaint against Dr. Atencio and the Register of Deeds of Davao del Sur for annulment of patent and title and the reversion of the land to the State for violation of the prohibition in R.A. 477 (Civil Case No. 842-Court of First Instance of Davao del Sur).

On December 24, 1975, the lower court rendered judgment finding that Dr. Atencio had violated the terms of his contract with the NAFCO; ordering the reversion of Lot 179 to the Republic of the Philippines; and requiring the defendant, Dr. Atencio, to deliver to the Board of Liquidators within ten (10) days from the finality of the decision, the possession of the land and its improvements with an accounting of the fruits received by him from the filing of the case until he surrenders possession of the land to the Republic. The court further ordered the Register of Deeds of Davao del Sur, upon the finality of the decision, to cancel Atencio's OCT No. P-16675 (Record on Appeal, p. 17).

The defendant appealed to the Court of Appeals (CA-G.R. No. 60754-R). During the pendency of his appeal, P.D. No. 967 was issued on July 24, 1976, amending Section 8 of Republic Act No. 477 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."

Section 8 of Republic Act No. 477 was further amended by P. D. No. 1304 on February 24, 1978, as follows:

"SEC. 8. - Any provision of law, executive order, rules and 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 therein, made and consummated prior to July 24, 1976, are hereby confirmed, ratified and validated."

This amendment of Section 8 of P.D. No. 967 eliminating the prohibition against the sale, transfer, conveyance, and encumbrance of lands acquired under R.A. No. 477 including the permanent improvements therein and validating all those which had been consummated prior to July 24, 1976 has extinguished the Government's cause of action for the recovery of the land from Atencio because the conveyances made by him were prior to July 24, 1976. ("Sale of Rights with Right to Repurchase" in favor of Esteban Salutillo in 1956 and "Transfer of Rights" in favor of Santos Vda. de Salutillo in 1962 which had been nullified in 1969 by the CFI of Davao in Civil Case No. 111). The illegality of those transactions has been washed away by P.D. No. 1304. This supervening circumstance

has rendered the reversionary action of the Republic against him moot and academic.

WHEREFORE, the decision of the Court of First Instance of Davao del Sur in Civil Case No. 842 is hereby reversed and set aside. The complaint therein of the Republic of the Philippines against the defendant?appellant Enrique V. Atencio is dismissed. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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