

ENRIQUE ANTONIO, GREGORIO MARQUEZ, FELIPE BAGAY, ROSITA SANDIL AND ELENA VDA. DE BAGAY, PETITIONERS, VS. HON. CONRADO F. ESTRELLA, OFFICE OF THE PRESIDENT, BENEDICTO ZAFRA, RAFA...

G.R. No. 73319. December 01, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the decision of the Office of the President dated May 21, 1985 in O. P. Case No. 2762, entitled IN RE: Petition for Exemption of Certain Landholdings situated in Balagtas, Bulacan, from OLT Coverage and Cancellation of OLTS covering the same. BENEDICTO ZAFRA, ET AL., Petitioners-Appellees, affirming in toto the October 5, 1983 Order of the Minister of Agrarian Reform* recalling the Certificates of Land Transfer issued to the herein petitioners.

Upon the promulgation of Presidential Decree No. 27 on October 21, 1972, ordering "the emancipation of the tenants from the bondage of the land they till", herein petitioners took the necessary steps for the eventual transfer to them of the ownership of the land they were then, and are still cultivating. On June 19, 1981, the corresponding Certificates of Land Transfer were issued to them by the Ministry of Agrarian Reform, covering the landholdings in question.

On August 10, 1982, herein private respondents filed with the Ministry of Agrarian Reform a petition, which was amended on September 30, 1982, praying that the parcels of land situated in Barangays Santol, Pulong Gubat and Dalig, Balagtas, Bulacan, sold to them in separate deeds of sale executed on July 13, 1972, by Clara Zafra and Teodora Zafra, both deceased, be exempted from the coverage of Operation Land Transfer pursuant to PD 27 and the Certificates of Land Transfer issued to the tenants thereof covering the same be recalled and cancelled on the ground that the areas sold to each of them is less than (7) hectares and that the tenants knew of the execution of the said deeds and have been giving the corresponding rentals to them as new owners. The modified petitions show that the landholdings formerly owned by Clara Zafra and Teodora Zafra contain an aggregate area of 52.7 hectares and that portions thereof were sold by them to the petitioners (herein private respondents) on July 13, 1972 as follows:

NAMES OF VENDEES

AREA OF LAND SOLD

1. Benedicto Zafra and

Aurora Zafra-Joaquin

13.0154 has.

1.2203 has.

3.2874 has.

2. Antonio Ongaguit

0.1237 has.

3.1625 has.

3. Alejandro Zafra, Jr.

0.2543 has.

4.6529 has.

4. Celso Zafra

6.7659 has.

5. Rafael Zafra

3.8673 has.

3.0023 has.

The herein public respondent, the Minister of Agrarian Reform, after investigation and hearings, in an Order dated October 5, 1983 (Record, pp. 31-35), ruled in favor of the herein private respondents. The decretal portion of the said order, reads:

"WHEREFORE, premises considered, the petition of Benedicto Zafra, et al., for the exemption of their landholdings situated in Balagtas, Bulacan, from the coverage of Operation Land Transfer is hereby granted. Accordingly, the Certificates of Land Transfer covering said lands issued to the tenants thereof are hereby recalled and cancelled; however, said tenants shall remain in the peaceful possession and cultivation of their respective farmholdings as agricultural lessees thereof."

To the said Order of October 5, 1983, herein petitioners filed a Motion for Reconsideration, arguing that (a) the provisions of LOI 474 issued on October 21, 1976 apply to the landholding in question; and (b) the transfer of the subject landholdings, having been executed prior to October 21, 1972 but not registered with the Register of Deeds concerned before said date in accordance with the Land Registration Act (Act No. 496) shall not be considered a valid transfer insofar as the tenants-farmers are concerned and therefore the land should be placed under Operation Land Transfer.

In an Order dated May 28, 1984 (Ibid., pp. 64-66), respondent Minister of Agrarian Reform denied petitioners' Motion for Reconsideration on the grounds that (1) petitioners failed to submit any evidence that the private respondents have other agricultural lands; and (2) the authenticity and due execution of the deeds of sale on July 13, 1972 have been certified to by the Acting Clerk of Court, Regional Trial Court of Manila in his Certification dated April 22, 1983, and this being so, there is no fraudulent transfer, much less marked fraudulent transfer.

Petitioners filed an Appeal with the Office of the President, docketed therein as O. P. Case No. 2762. Petitioners premised their appeal on the grounds that (1) the act of registration is the operative act that conveys and affects the land; (2) under LOI No. 474, all tenanted rice/corn lands are subject to operation land transfer pursuant to PD 27; and (3) payments have already been made to the Land Bank of the Philippines covering their respective landholdings.

The Office of the President, in a Decision dated May 21, 1985 (Ibid., pp. 37-40), affirmed in toto the appealed decision. It is its findings and conclusion that (1) herein petitioners were notified of the sale of the questioned

parcels of land to the herein private respondents (see Joint affidavit dated July 12, 1972 - Exh. A-6 for the appellees), and this fact was never controverted at any stage by petitioners. Hence, they are bound even if the registration of said transfers were made only after the promulgation of PD 27; (2) herein private respondents' landholdings are not covered by LOI No. 474 since the area of each landholding does not exceed seven hectares; and (3) the payments made by herein petitioners represent "advance deposit" or "farmers deposit" and not monthly amortizations of a supposed sale of landholdings to them.

Petitioners filed a Motion for Reconsideration but the Office of the President, in a Resolution dated November 22, 1985 (Ibid., p. 41), denied the same on the ground that the same is a mere rehash of the issues raised in their appeal memorandum of September 4, 1984. Hence, the instant petition (Ibid., pp. 2-16).

The Second Division of this Court, in a Resolution dated January 13, 1986 (Ibid., p. 42), dismissed the petition for lack of merit.

On February 27, 1986, petitioner filed a Motion for Reconsideration (Ibid., pp. 49-52).

In a Resolution dated July 7, 1986, the Second Division of this Court resolved to require the respondents to comment (Ibid., p. 55). In compliance therewith, private respondents filed their Comments and/or Rejoinder to Petitioners' Motion for Reconsideration (Ibid., pp. 60-63) on August 4, 1986, while public respondents filed their Comment (Ibid., pp. 83-98) on December 20, 1986.

The Second Division of this Court, in a Resolution dated February 4, 1987, resolved to require the petitioners to file a reply (Ibid., p. 102). In compliance therewith, petitioners filed their Reply to Comment of the Office of the Solicitor General (Ibid., pp. 103-107) on March 12, 1987.

In a Resolution dated April 27, 1987, the Second Division of this Court resolved to give due course to the petition, and to require the parties to submit their respective memoranda within 20 days from notice (Ibid., p. 126).

On May 19, 1987, public respondents filed a Manifestation and Motion (Ibid., p. 129), praying that their Comment of December 18, 1986 be considered their memorandum.

On June 25, 1987, petitioners filed their Memorandum (Ibid., pp. 125-144).

The sole issue raised by petitioners is -

WHETHER OR NOT CERTIFICATE OF LAND TRANSFER ALREADY ISSUED CAN BE CANCELLED
BY THE MINISTRY OF AGRARIAN REFORM.

The answer is in the affirmative.

As capsuled by the Solicitor General, petitioners' main grounds of protest against the recall of the subject certificates of land transfer by respondent MAR Minister covering the landholdings in question, are as follows:

"(1) The deeds of sale were fraudulently executed to evade the effects of the Operation land Transfer pursuant to PD 27, which are not also binding upon them since the effectivity of PD 27 on October 21, 1972;

"(2) Under LOI 474, all tenanted rice/corn lands with an area of seven hectares or less are subject to Operation Land Transfer pursuant to PD 27, on the assumption that the owners of the landholdings in question also own other agricultural or urban lands from which they derive sufficient income to support them and their families; and

"(3) Petitioners had already paid their monthly amortizations to the Land Bank of the Philippines on the subject landholdings supposedly sold to them pursuant to the MAR's Operation Land Transfer as mandated by PD 27."

I.

Public respondents MAR Minister and the Office of the President, both found in the evidence on record and the applicable laws, that the deeds of sale in question are valid and legal, not tainted with fraud, and the tenants have actual knowledge thereof.

More importantly, Agrarian Reform Team Leader, Atty. Amanda V. Cabigao who investigated the petition of herein private respondents for cancellation of the subject certificates of land transfer, found from the evidence presented that while the properties left by Clara and Teodora Zafra (the previous registered owners) who both died after the promulgation of PD No. 27, are covered by Operation Land Transfer, the same is not true of the portions of said land, transferred to other persons before the promulgation of said decree on October 21, 1972 whose documents of sale are in accordance with the formalities of law and the evidence of ownership presented. Specifically, the disputed deeds of sale were executed on July 13, 1972, as established by the Certification of the Acting Clerk of Court of the Regional Trial Court of Manila, and cannot therefore be considered fraudulent transfers to circumvent the provisions of PD No. 27 which was still non-existent at the time. Thus, it has been held that a deed of sale is valid where there is no indication that it is simulated. The disputable presumption that the private transaction has been fair and regular has not been rebutted. (Par. p. Sec. 5, Rule 131, Rules of Court; *San Luis vs. Negrete*, 98 SCRA 95 [1980]). To contradict the facts contained in a notarial document and the presumption of regularity in its favor, there must be evidence that is clear, convincing and more than merely preponderant. (*Yturralde vs. Azurin*, 28 SCRA pp. 407-408 [1969]).

Petitioners point out that the deeds of sale were registered only on December 7, 1972 in the Registry of Deeds of Bulacan, that is after the date of promulgation of said decree.

It is however elementary that "while under the Torrens System registration is the operative act that binds the land, and in the absence of record there is only a contract that binds the parties thereto, without affecting the rights of strangers to such contract, actual knowledge thereof by third persons is equivalent to registration. (*Southwestern University v. Laurente*, 25 SCRA 57 [1968]; *Ramos & Ayco vs. Dueno & Otcada*, 50 Phil. 786 [1927]; *Gustilo vs. Maravilla*, 48 Phil. 422, 448 [1925]).

In the case at bar the records show that petitioners were notified by the Zafra sisters of the sale of the parcels of land to the private respondents as evidenced by the Joint Affidavit dated July 12, 1972 (Exhibit "A-6" for appellees) and that such fact was never controverted at any stage of the proceedings by the petitioners.

II

Petitioners insist before respondents MAR and the Office of the President, that private respondents own other lands planted to rice and corn in order obviously to bring this case within the coverage of the Operation Land Transfer pursuant to PD 27. The former however failed to adduce evidence to support their allegation. Accordingly, he who alleges a fact has the burden of proving it and a mere allegation is not evidence. (*Top Weld Manufacturing Inc. vs. ECED, S.A.*, 138 SCRA 118 [1985] citing *Legasca vs. De Vera*, 69 Phil. 376).

On the other hand, the evidence as found by respondent MAR clearly shows that subject landholdings were part of a big land area and that portions thereof were sold to private respondents, the total of which is less than seven (7) hectares to each of them. Furthermore, it was also found by respondent MAR and affirmed on appeal by the Office of the President that none of private respondents "own other agricultural lands of more than seven (7) hectares in aggregate area or lands used for residential, commercial, industrial, or other urban purposes from which they derive sufficient income to support themselves and their families." (Comment, Solicitor General, Rollo, pp. 91-93).

It is evident that there is no dispute as to the requisites of a valid contract of sale. Petitioners even agree with respondents that the contract of sale (to them) in the case at bar is understandably peculiar in the sense that the parties were practically forced to agree voluntarily". A contract of sale under PD 27, as petitioners assert, is one created by operation of law. (Rollo, p. 8). But petitioners missed the point all together that PD 27, the agreed basis of Operation Land Transfer is not applicable, precisely because none of the areas taken exceeds seven (7) hectares.

Hence as correctly observed by the Solicitor General, there could hardly be any "meeting of the minds" between herein petitioners and private respondents, as sellers and buyers, respectively, of the landholdings. There was no assent and concurrence of the parties to the forced sale of said landholdings. Such forced sales of the subject landholdings, upon a mistaken application of the Operation Land Transfer by way of implementing PD 27, was obviously made under circumstances that certainly negated consent on the part of herein private respondents as sellers thereof. (Rollo, p. 94).

Without consent nor the law to justify the compulsion of such transfer, no valid and legal contract of sale, involving the subject landholdings, is possible.

III.

Neither can the continuous payments of rentals to the previous registered owners and to herein private respondents as the new owners thereof by the tenants to the Land Bank of the Philippines be considered as the agreed cause or consideration of the forced sale of subject landholdings. As established, such payments were considered by the MAR as "amortizations/part payments of the said land if the tenants will prevail in the case or rentals if otherwise" (Annex "G" Petition, Rollo, p. 36). Moreover, the receipts issued by the Land Bank of the Philippines show that the payments made by appellants (petitioners herein) represent "advance deposit" of "farmers deposit" and not monthly amortizations. Such deposits may be withdrawn from the Land Bank by the petitioners as their landholdings do not fall within the purview of the operation land transfer, as stated by the Minister of Agrarian Reform and sustained by the Office of the President. (Annex "H-3" Petition, Rollo, p. 39).

Finally, two agencies of the government, MAR and Office of the President, examined the evidence and came up with the same findings. It is therefore without question that such findings supported as they are by substantial evidence, should be respected. In line with this view, the Court has ruled:

"x x x in reviewing administrative decisions, the reviewing court cannot reexamine the sufficiency of the evidence as if originally instituted therein, and receive additional evidence that was not submitted to the administrative agency concerned. The findings of fact must be respected, so long as they are supported by substantial evidence, even if not overwhelming or preponderant." (Police Commission vs. Lood, 127 SCRA 757, 763 [1984].

PREMISES CONSIDERED, the instant petition is DISMISSED and the decision of the Office of the President is AFFIRMED.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

* Decided by Presidential Assistant for Legal Affairs, Manuel M. Lazaro.

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