

RESTITUTO DE LEON, PETITIONER, VS. COURT OF APPEALS, JUANITA RAMOS AND MAXIMO PEREZ, RESPONDENTS.

G.R. No. 88788. September 04, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

The petitioner is challenging the purported sale to the private respondents of two parcels of land which he claims as his own by right of inheritance.

The said properties were part of the Buenavista Estate, which had been purchased by the Republic of the Philippines for distribution among landless tenants and farmers. On April 1, 1955, Lot No. S-117 thereof, covering over 14,200 square meters, was sold to Manuel de Leon by the Department of Agriculture on behalf of the Republic. On August 5, 1969, Lot 43 thereof, consisting of 11,847 square meters, was also sold by the Republic, through the Land Authority, to the heirs of Manuel de Leon, represented by the herein petitioner, his grandson.

The first Deed of Sale carried the following limitation on the disposition of the land:

1. That it shall not be sold, assigned, encumbered, mortgaged or transferred, within the period of five (5) years from the date hereof without first obtaining the written consent of the Secretary of Agriculture and Natural Resources.
2. That except by hereditary succession, it shall not be conveyed, transferred or assigned in favor of any person who is not landless and disqualified to acquire or own land in the Philippines.

The second sale was subject to a similar condition, thus:

1. x x x
2. That except by hereditary succession it shall not be subdivided, sold or in any manner transferred or encumbered, within the period of FIFTEEN (15) years from the date of execution hereof, without first obtaining the written consent of the Governor of the Land Authority and only to persons who are qualified to purchase said land under Commonwealth Act No. 539, Republic Act No. 1162, as amended, Republic Act No. 1400 as amended and/or Republic Act No. 3844 or to government banking institutions or agencies or to any private banking institutions.

On July 24, 1969, the herein private respondents filed a complaint against the petitioner for partition of the lands and accounting in the Court of First Instance of Bulacan. They alleged that they had bought 1/2 of the lands from Maria de los Santos, the widow of Manuel de Leon, by virtue of a "Tuluyang Bilihan" dated March 18, 1959.[1] She had failed to deliver possession to them until her death on February 5, 1960. The petitioner, who had succeeded her in the lands, had resisted their demands for accounting of the income from the said properties.

In his answer, the petitioner averred that the properties belonged to him as the sole heir of Manuel de Leon. The alleged "Tuluyang Bilihan" was a nullity because Maria de los Santos had no authority to convey the properties

during the prohibited period without the written consent of the appropriate authorities.

After trial, Judge Benigno M. Puno sustained the private respondents in a decision dated April 15, 1977.[2] This was affirmed on appeal by the respondent court on February 16, 1989, and reconsideration was denied on June 15, 1989.[3]

The Court of Appeals agreed that the "Tuluyang Bilihan" was genuine and valid and that the alleged lack of the stipulated written consent could be invoked only by the Republic of the Philippines and not by the petitioner. He was not a party to the "Tuluyang Bilihan." Besides, the said stipulations were not applicable to cases of hereditary succession, and De los Santos, who sold the lands, was the heir of her husband, Manuel de Leon.

The petitioner has come to this Court for relief. Specifically, he claims that the Court of Appeals should not have recognized the "Tuluyang Bilihan" as valid because the contents thereof were not explained to Maria de los Santos. He repeats his argument that the sale, assuming it was not simulated, violated the conditions above-quoted and was therefore void. He also insists that the complaint was barred by laches or prescription and that he should not have been prevented from invoking the dead man's statute.

We hold first of all that the stipulations in the first deed of sale in favor of Manuel de Leon were binding on his heirs, were also bound, directly this time, by the similar stipulations in the second deed of sale.

The purpose of these stipulations was to keep within the family the property which the government had sold to the tenant or farmer for a minimal cost to enable him to acquire his own land. Hence, it was necessary for Maria de los Santos, before selling the subject properties to the private respondents, to first secure the written consent to such sale of the Secretary of Agriculture and Natural Resources (in the case of the first lot) and of the Governor of the Land Authority (in the case of the second lot).

The only exception to the said conditions is when the land is acquired by or transferred to another person by hereditary succession. Thus, when the lands were inherited by Maria de los Santos as the surviving spouse of Manuel de Leon, there was no need for such written consent. But such consent was still necessary when, as transferee of the properties, she later sold them to the private respondents. The lands were transferred to the private respondents by virtue of the "Tuluyang Bilihan" and not by hereditary succession. To be valid, therefore, the sale needed the written consent of the above-named officials.

There is no pretense that such consent was ever obtained.

We disagree with the respondent court that because Maria de los Santos acquired the subject lands by hereditary succession, she was thereby released from the conditions of the sales made on April 1, 1955, and August 5, 1969. There is no reason why, as heir, she should be treated less strictly than her predecessor-in-interest in the disposition of the lands during the prohibited period.

The Court has held as follows:

It is undisputed that Free Patent No. 298112 was issued to petitioner Apolonio Egao over Lot No. 662 on 12 August, 1965. Sec. 118 of Commonwealth Act No. 141, as amended, prohibits the alienation or encumbrance, within a period of five (5) years from the date of issuance of the patent, of lands acquired under free patent or homestead. Assuming, arguendo, the authenticity of the Deeds of Sale executed by the Egaos in favor of Marfori over portions of Lot No. 662 (the land in question), dated 7 May 1964, 14 January and 6 October 1965, it clearly appears that all deeds were executed within the prohibited period of five (5) years. As correctly found by the appellate court -

Section 124 of the Public Land is Act provided (sic) that any acquisition, conveyance, alienation, transfer or other contract made or executed in violation of any of the provisions of Sections 118, 121, 120, 122 and 123 of this Act

shall be unlawful, null and void from its execution and shall produce the effect of annulling and cancelling the grant, title, patent or permit originally issued, recognized or confirmed, actually or prescriptively, and cause the reversion of the property and its improvements to the state.

x x x

Deeds of sale of patented lands, perfected within the prohibited five (5) year period are null and void (Sec. 124, Public Land Act). No title passed from the Egaos to Marfori which could be validly transferred to herein respondents Bontilao and Dignos. Nemo dat quod non habet (nobody can dispose of that which does not belong to him).[4]

x x x The restrictions and qualifications attached to every alienation of these lands are mandatory, with the primordial aim to preserve land grants to the family of the applicant for free patent.[5]

x x x The provision of the law which prohibits the sale or encumbrance of the homestead within five years after the grant of the patent is mandatory, the purpose of the law being to promote a definite public policy, which is to preserve and keep in the family of the patentee that portion of the public land which the State has gratuitously given to them.[6]

x x x [W]e have consistently ruled that a sale of the homestead within the 5-year prohibitive period is void ab initio and the same cannot be ratified nor can it acquire validity through the passage of time.[7]

While these cases referred to homestead and free patents, we do not see why the above doctrine should not also apply to the case at bar. The reason for the distribution and sale of the Buenavista Estate was also to promote the distribution of land for the landless conformably to the constitutional intent. While it is true that the lots were not granted outright or for free, the purchase price thereof was intentionally minimal, precisely to enable the buyers to acquire the lots under the easiest terms. Thus, in the dispute before us, the first lot was sold for only P177.50 and the second lot for only P236.94. The two lots covered a total area of more than two and a half hectares.

In holding that only the Republic of the Philippines could question the validity of the "Tuluyang Bilihan" on the ground of non-compliance with the consent stipulations, the Court of Appeals is supported by ample jurisprudence. Thus:

Furthermore, a private individual may not bring an action for reversion or any action which would have the effect of cancelling a free patent and the corresponding certificate of title issued on the basis thereof, with the result that the land covered thereby will again form part of the public domain, as the Solicitor General or the officer acting in his stead may do so.[8]

x x x [T]he forfeiture of a homestead is a matter between the State and the grantee or his heirs, and that until the State had taken steps to annul the grant and asserts title to the homestead the purchaser is, as against the vendor or his heirs, no more entitled to keep the land than any intruder.[9]

x x x [W]hen a grant of land is made by the government, the question of its validity is a matter between the grantor and the grantee, and unless the point is raised by the Government and the grant is set aside, a third person cannot question the legality of the concession.[10]

On the other hand, no less than Manresa has expressed the contrary view, based on the public policy that an heir, like the herein petitioner, cannot be prevented from inheriting property rightfully belonging to his predecessor.[11]

In any event, as the "Tuluyang Bilihan" was null and void ab initio, ownership of the disputed lands was not transferred to the private respondents but remained with Maria de los Santos. The Republic of the Philippines, if not the petitioner, may still ask for the reversion of the properties to the State for violation of the conditions in the

deeds of sale. Meanwhile the petitioner would have preferential rights of possession thereover vis-a-vis the private respondents, who rely only on the void "Tuluyang Bilihan."

Thus, as we held in the Egao case:

While the government has not taken steps to assert its title, by reversion, to a homestead sold in violation of the Public Land Act, the vendor or his heirs is better entitled to the possession of the land, the vendee being in no better situation than any intruder.

It is only fair, however, that the private respondents be allowed to at least recover the purchase price of the land, with legal interest from the time of the execution of the Tuluyang Bilihan until the refund is actually made. This ruling is based on the findings of the lower court that the said instrument, although deficient for lack of the required consent, was validly executed.

We shall support this factual finding because the petitioner was rather ambivalent in assailing the authenticity of the "Tuluyang Bilihan." At first he doubted its genuineness because it was only thumbprinted and not signed by Maria de los Santos. On appeal, he alleged that the contents of the instrument should have been explained to her because she was illiterate.

In view of the above resolutions, it is no longer necessary to examine the other objections raised in the petition.

WHEREFORE, the challenged decision of the Court of Appeals is REVERSED and a new judgment is rendered: a) declaring the "Tuluyang Bilihan" dated March 18, 1959, null and void ab initio for violation of the conditions stipulated in the Deed of Sale dated April 1, 1955, and the Deed of Sale dated August 5, 1969; b) recognizing the petitioner's preferential right to the possession of the subject properties, without prejudice to the right of the State to ask for its reversion to it for violation of the conditions of the said Deeds of Sale; and c) requiring the petitioner to refund to the private respondents the amount of P2,300.00, the consideration of the annulled "Tuluyang Bilihan," with legal interest thereon from March 18, 1959, until it is fully paid. No pronouncement as to costs.

SO ORDERED.

Griño-Aquino, Medialdea, and Bellosillo, JJ., concur.

[1] Orig. rec., pp. 10-11.

[2] Ibid., pp. 39-42.

[3] Rollo, pp. 20-32; 37-38; Ordoñez-Benitez, J., ponente, with Purisima and Fule, JJ., concurring.

[4] Egao vs. Court of Appeals, 174 SCRA 484.

[5] Vallangca vs. Court of Appeals, 173 SCRA 42.

[6] Republic vs. Court of Appeals, 171 SCRA 721.

[7] Agustino vs. Court of Appeals, 170 SCRA 620.

[8] Egao vs. Court of Appeals, supra.

[9] Acierto, et al. vs. De los Santos, et al., 95 Phil. 887.

[10] Gacayan vs. Leaño, 121 SCRA 260.

[11] 8 Manresa, 717-718, 4th Ed., cited in Registration of Land Titles and Deeds, Noblejas, 1983 Ed., p. 371.

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