

AMBROCIO MUYCO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND SERGIO SAGA, RESPONDENTS.

G.R. No. 96302. November 29, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the decision* of the CA in CA-G.R. No. 14152 affirming the decision of the RTC, Branch 39, of Dumaguete City.

The undisputed facts of the case are as follows:

On November 22, 1935, Eugenio Saga filed an application for a homestead patent over a portion of Lot No. 5164 located in Pamplona, Negros Oriental. Sometime thereafter, the Bureau of Lands subdivided the said lot into two smaller lots, described as Lot Nos. 5956 and 6331, Pls-147. Eugenio Saga's application was approved on July 10, 1937, and on July 6, 1939, he was issued a Homestead Patent over said portion of Lot 5164 by the Director of Lands.

On February 2, 1952, Eugenio Saga sold his rights over the homestead to his son Sergio Saga, respondent herein. On the same date, Sergio Saga filed a homestead application over Lot No. 5956, Pls-147. On October 23, 1954, an OCT was issued to Sergio Saga over the said lot.

On the other hand, on March 4, 1946, Leon Tolabing filed a homestead application over Lot No. 5956. This application was approved on October 5 of the same year, and on April 11, 1955, he sold his homestead rights to Ambrocio Muyco. On the same date, Muyco filed his homestead application over the said lot. He was not issued a certificate of title as his application covered the same Lot 5956, over which an OCT had been issued to Sergio Saga.

On May 7, 1955, the Public Land Inspector of Negros Oriental conducted an investigation of the matter and found that Sergio Saga was occupying and cultivating Lot No. 6331; that Sergio had not occupied or cultivated Lot No. 5956; that the one who was occupying and cultivating Lot No. 5956 was Leon Tolabing. Accordingly, it was recommended that the title issued to Sergio Saga be recalled and modified to cover Lot No. 6331. These findings were questioned by Sergio Saga.

A subsequent report on December 5, 1957 by the Office of the Public Land Inspector reiterated the above findings and that there had been an error in recording the lot number of Sergio Saga.

In the meantime, Sergio Saga filed a case for "Recovery of Possession" against Ambrocio Muyco. The main thrust of his complaint was anchored on the fact that he was the holder of a Certificate of Title covering the lot in question. The case dragged on for years until February 16, 1987 when the trial court rendered a decision adverse to Ambrocio Muyco, to wit:

"It cannot be denied that Sergio Saga was able to obtain a patent over Lot No. 5956, which is now covered by Original Certificate of Title No. H-V-795 (a xeroxed copy thereof presented). (p. 52, Rollo)

x x x

“Thus, an original certificate of title issued on the strength of a homestead patent partakes of the nature of a certificate issued in a judicial proceeding and become indefeasible and incontrovertible upon the expiration of one year from the date of the issuance thereof. (Ingaran v. Ramelo, 107 Phil. 498; Ramirez v. Court of Appeals, L--28591, October 31, 1969, 30 SCRA 297).

x x x”

(p. 52, Rollo)

Ambrocio Muyco then brought the case by appeal to the Court of Appeals which affirmed the lower court's ruling.

Hence, this petition for review based on the following assignment of errors:

"1. The Honorable Court of Appeals erred in concluding that there was no mistake in the issuance of a Certificate of Title to respondent Sergio Saga for Lot No. 5956 despite the fact that what was applied for in Homestead Application No. 211844 (E--121405) (over a portion of Lot No. 5164, Cad. No. 119) was Lot No. 6331.

"2. The Honorable Court of Appeals erred in not holding that Leon Tolabing (petitioner's predecessor-in-interest) already acquired a vested right over Lot No. 5956 under Application No. V-666 (E-V-705), PLS 147 when the Director of Lands ordered on October 5, 1946 the approval of said application.

"3. The Honorable Court of Appeals erred in not ordering the reconveyance of Lot No. 5956 to petitioner Ambrocio Muyco." (p. 7, Rollo)

The petition is not impressed with merit. We quote with approval the observation and ruling of the appellate court that:

"We do not perceive any error here. It is clear that as early as 1939 Eugenio Saga already became the owner of the lot in question by virtue of a patent granted to him by the Director of Lands.

x x x

"If any error had been committed, it was in the acceptance of homestead applications over the parcel of land which was already covered by an earlier application. What we also see as erroneous and unnecessary was the re-application by Sergio Saga for a homestead patent over lot no. 5956 which, as discussed, had already been granted to Eugenio Saga under the latter's homestead application." (p. 18, Rollo)

Hence, it will readily be seen that it was Eugenio Saga who acquired a vested right over the lot in question, and not Leon Tolabing. It was this vested right which Sergio Saga likewise acquired by virtue of the sale on February 2, 1952 involving the homestead.

Even if we were to regard otherwise, x x x "it appears that the application of Leon Tolabing was denied as it was the application of Sergio Saga that was granted and given due course, patent no. V-36170 having been issued to him. Aside from this, an OCT covering the lot in question was issued to Saga on October 23, 1954, thereby creating an indefeasible and incontrovertible title in his favor (Ramirez vs. CA, 30 SCRA 297)." (p. 18, rollo)

PREMISES CONSIDERED, the decision of the Court of Appeals dated September 12, 1990 is hereby AFFIRMED and this petition for review is DENIED for lack of merit.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Regalado, JJ., concur.

* Penned by Associate Justice Alfredo L. Benipayo and concurred in by Associate Justices Ricardo L. Pronove, Jr. and Salome A. Montoya.

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