

45 Phil. 375

[G.R. No. 20189. October 31, 1923]

VALENTINA JOCSON, PLAINTIFF AND APPELLANT, VS. ANTERO SORIANO, ADMINISTRATOR OF THE ESTATE OF SILVESTRE ESTACION, DECEASED, DEFENDANT AND APPELLEE.

D E C I S I O N

JOHNSON, J.:

The only question presented by this appeal is: When the purchaser from the Government of lots or parcels of land formerly belonging to the Friar Land State dies before complete payment is made, leaving a widow surviving him, do such lots or parcels belong to the estate of the deceased to be administered by his administrator, or may the wife have the inchoate title in such lots or parcels transferred to her and thus be eliminated or excluded from the estate of her deceased husband?

The facts in the present case may be stated as follows: (a) that some time prior to November 1, 1918, the said Silvestre Estacion purchased from the Government the following lots or parcels of land Nos. 1018, 723, 1007, 687, 270, 742, and 386; (b) that said lots had theretofore been purchased by the Government as a part of the *Hacienda de los Frailes en el Municipio de Santa Cruz de Malabon*; (c) that Silvestre Estacion and his predecessors had been in possession, as tenants, of said parcels of land since before the American occupation of the Philippine Islands; (d) that he was the occupant, as tenant, of said parcels of land at the time the said *hacienda* was purchased; (e) that after he had purchased said lots he continued to make the partial payments under his contract, up to the time of his death; (f) that he left a widow surviving him, who is the present plaintiff; (g) that after the death of Silvestre Estacion, and on the 12th day of September, 1919, the said Valentina Jocson, as the surviving widow

of Silvestre Estacion, taking advantage of the provisions of section 16 of Act No. 1120, had said¹ lots transferred to her (see Exhibits A, B, C, D, E, F, and G); (h) that notwithstanding the fact that the widow, Valentina Jocson, of Silvestre Estacion had had said lots transferred to her in accordance with said section 16 after the death of her husband, the administrator of the estate of Silvestre Estacion took possession of the same, included them in the inventory of the estate and continued to administer the same as a part of the estate of the deceased.

Valentina Jocson, under the foregoing facts, prayed that said seven lots be excluded from the inventory of the administrator of the estate of Silvestre Estacion, and that the same be returned to her immediately. The lower court denied her petition and decided that said lots were a part of the estate of Silvestre Estacion and that, as such, Antero Soriano, as administrator, had a right to include them in his inventory and to administer them. From that judgment the plaintiff appealed.

The appellant now contends that the inchoate title to said lots belongs to her and that she has the sole and exclusive right to occupy and administer them. Her contention is based upon the provisions of Act No. 1120, with special reference to section 16 of the same. Act No. 1120 provides, among other things, that the actual occupant of any portion of the Friar Lands at the time of the purchase by the Government should be given a preference in the right to purchase the land or lot occupied. Silvestre Estacion was the actual occupant, as tenant, of the said seven parcels of land at the time of the purchase by the Government and at the time of his purchase from the Government, and he continued to be in possession of the same until his death. Said Act further provides that the purchaser had a right to make partial payments until the full purchase price was paid. The Act further provides that the title to each and every parcel of land sold should remain in the Government *until the full payment of all installments of purchase money and interest by the purchaser has been made*, and that any incumbrance created by the purchaser against said parcels or lots shall be invalid as against the Government. Section 16 provides that "in the event of the *death* of a holder of a certificate (of purchase of any portion of said land), the issuance of which is provided for in section 12 hereof, *prior to the execution of a deed by the Government to any purchaser, his widow shall be entitled to receive a deed of the land* stated in the

certificate upon showing that she has complied with the requirements of law for the purchase of the same. * * *

At the time of the death of Silvestre Estacion, he had nothing but an inchoate right in the parcels of land. The title was still in the Government. The Government being the owner, until full payment was made, had a perfect right to prescribe how such property should be disposed of in case of the death of the husband. The character of the right of Silvestre Estacion was very analogous to that of a homesteader. Act No. 926, which provides for the granting of homesteads, in its section 3 contains a very similar provision to that of section 16 of Act No. 1120, for the disposition of the homestead in case the applicant dies before title in him is perfected, leaving surviving him a wife. Said section 3 provides that "in the event of the death of an applicant (for a homestead) prior to the issuance of a patent (title), *his widow* shall be entitled to have a patent for the land applied for issue to her" upon a proper showing, and until a final title or patent is issued for the land to the applicant the Government remains the owner.

Acts Nos. 1120 and 926 were patterned after the laws granting homestead rights and special privileges under the laws of the United States and the various states of the Union. The statutes of the United States as well as of the various states of the Union contain provisions for the granting and protection of homesteads. Their object is to provide a home for each citizen of the Government, where his family may shelter and live beyond the reach of financial misfortune, and to inculcate in individuals those feelings of independence which are essential to the maintenance of free institutions. Furthermore, the state itself is concerned that the citizens shall not be divested of a means of support, and reduced to pauperism. (Cook and Burgwall vs. McChristian, 4 Cal., 24; Franklin vs. Coffee, 70 Am. Dec., 292; Richardson vs. Woodward, 104 Fed. Rep., 873; 21 Cyc., 459.)

The conservation of a family home is the purpose of homestead laws. The policy of the state is to foster families as the factors of society, and thus promote general welfare. The sentiment of patriotism and independence, the spirit of free citizenship, the feeling of interest in public affairs, are cultivated and fostered more readily when the citizen lives permanently in his own home, with a sense of its protection and durability. (Waples on Homestead

and Exemptions, p. 3.)

Under the statutory and constitutional provisions of the various states of the Union it has been held that "homestead privilege does not terminate on the husband's death but is transmitted to his widow and children." (21 Cyc., 562.)

In the case of the Estate of Fath (132 Cal., 609) the Supreme Court of California held that "a homestead selected by the husband in his lifetime * * * vests absolutely in his surviving wife * * *. The descent of the homestead to the surviving widow was governed by the law in force at the death of her husband." (Dickey vs. Gibson, 54 Am. St. Rep., 321.)

Neither does a widow lose her right in the homestead estate of her first husband by a second marriage. (Sanders vs. Russell, 21 Am. St. Rep., 29; Miles vs. Miles, 88 Am. Dec., 208.)

Upon the death of the husband, the wife may continue to occupy the whole of the homestead. (Nicholas vs. Purczell, 89 Am. Dec., 572.)

The doctrine announced with reference to the right of the widow in the homestead upon the death of her husband, does no injustice to the creditors of the deceased, since they have it always in their power to protect themselves either by refusing credit or by demanding such security as will protect them from loss. (Keyes vs. Cyrus, 38 Am. St. Rep., 296.)

Said section 16 (Act No. 1120) provides that in the event of the death of a holder of a certificate prior to the execution of a deed by the Government, his widow *shall* be entitled to receive a deed of the land upon a showing that she has complied with the requirements of the law for the purchase of the same. In the present case the widow took the steps necessary under the law to protect her right, and had the necessary certificates of transfer made to her (Exhibits A to H). From that date the inchoate right which her husband possessed passed to her, and to her alone, and she had a right to continue making the partial payments required, and when completed, to secure an absolute conveyance from the Government. The law conceded to her the right held by her husband, without diminution of control, subject only to her completing the contract with the Government. That being true, we are fully persuaded that the administrator of

the estate of Silvestre Estacion had no interest nor any control whatever in the administration of said lots or parcels of land. Under the law they did not belong to the estate of Silvestre Estacion. Whatever interest he had, passed immediately upon his death to his widow. The said lots constituted no part of the estate of Silvestre Estacion.

Therefore, it is hereby ordered and decreed that the judgment of the lower court be revoked; that the defendant, as administrator of the estate of Silvestre Estacion, exclude the said seven parcels of land immediately from the inventory of said estate, return the possession thereof to the plaintiff, and that he render to the Court of First Instance of the Province of Cavite, within a period of thirty days, a full and correct account of his administration of said parcels of land, and that he pay over to Valentina Jocson whatever sum or sums may be due her. And, without any finding as to costs, it is so ordered.

Malcolm, Avanceña, Villamor, Johns, and Romualdez,

JJ., concur.

Street, J., did not take part.