

FIRST DIVISION

[G.R. No. 108532, March 09, 1999]

**PABLITO Taneo, JR., JOSE Taneo, NENA T. Catubig and
Husband, Cilia T. Moring and Husband, Petitioners, vs.
Court of Appeals and Abdon Gilig, Respondents.**

D E C I S I O N

KAPUNAN, J.:

The issues in this case are not novel: whether or not the conveyance made by way of the sheriff's sale pursuant to the writ of execution issued by the trial court in Civil Case No. 590 is prohibited under Sec. 118 of Commonwealth Act No. 141; and whether or not the family home is exempt from execution.

As a result of a judgment in Civil Case No. 590 (For recovery of property) in favor of private respondent, two (2) petitioner's properties were levied to satisfy the judgment amount of about P5,000.00: one was a parcel of land located in Barrio Igpit, Municipality of Opol, Misamis Oriental with an area of about five (5) hectares, and the other was the family home also located at Igpit, Opol, Misamis Oriental. The subject properties were sold at public auction on February 12, 1966 to the private respondent as the highest bidder. Consequently, after petitioners' failure to redeem the same, a final deed of conveyance was executed on February 9, 1968, definitely selling, transferring, and conveying said properties to the private respondent.

To forestall such conveyance, petitioners filed an action on November 5, 1985 (docketed as Civil Case No. 10407) to declare the deed of conveyance void and to quiet title over the land with a prayer for a writ of preliminary injunction. In their complaint, it was alleged that petitioners are the children and heirs of Pablo Taneo and Narcisa Valaceras who died on February 12, 1977 and September 12, 1984, respectively. Upon their death, they left the subject property covered by OCT No. P-12820 and Free Patent No. 548906. Considering that said property has been acquired through free patent, such property is therefore inalienable and not subject to any encumbrance for the payment of debt, pursuant to Commonwealth Act. No. 141. Petitioners further alleged that they were in continuous, open and peaceful possession of the land and that on February 9, 1968, Deputy Provincial Sheriff Jose V. Yasay issued a Sheriff's Deed of Conveyance in favor of the private respondent over the subject property including their family home which was extrajudicially constituted in accordance with law. As a result of the alleged illegal deed of conveyance, private respondent was able to obtain in his name Tax Declaration No. 851920 over the land, thus casting a cloud of doubt over the title and ownership of petitioners over said property.

Private respondent refuted petitioners' contentions alleging that he lawfully acquired the subject properties described as Lot No. 5545, Cad. 237 which was a private land, by virtue of a Sheriff's Sale on February 12, 1966. Said sale has become final

as no redemption was made within one year from the registration of the Sheriff's Certificate of Sale. The validity of the sale in favor of Abdon Gilig was even confirmed by the Court of appeals in a related case (CA No. 499965-R) entitled "Arriola v. Gilig," where one Rufino Arriola also claimed ownership over the subject property.

Private respondent averred that the subject land was originally owned by Lazaro Baa who sold the land to Pablo Taneo on September 18, 1941, as evidenced by an Escritura de Venta. Despite it being a private land, Pablo Taneo filed an application for free patent which was made final only in 1979.

As counterclaim, private respondent alleged that since petitioners are still in possession of the subject property, he has been deprived of acts of ownership and possession and therefore, prayed for payment of rentals from February, 1968 until possession has been restored to them.

In its decision of March 27, 1989, the RTC dismissed the complaint.

The dispositive portion thereof reads as follows:

Premises considered, Judgment is hereby rendered in favor of the defendant and against the plaintiffs, ordering the dismissal of the complaint filed by the plaintiffs;

- a) Declaring OCT No P-12820 and Free Patent No. 548906 both in name of Pablo Taneo as null and void and directing the Register of Deeds to cancel the same, without prejudice however on the part of the defendant to institute legal proceedings for the transfer of the said title in the name of defendant Abdon Gilig;
- b) Declaring Abdon Gilig as the absolute and legal owner of the land covered by OCT No. P-12820, and covered by Tax Declaration No. 851920, and hence entitled to the possession of the same and as a necessary concomitant, admonishing the plaintiffs to refrain from disturbing the peaceful possession of the defendant over the land in question;
- c) Likewise declaring the defendant Abdon Gilig as the true and absolute owner of the house in question formerly declared under Tax Declaration No. 4142 in the name of Pablo Taneo and presently declared under Tax Declaration No. 851916 in the name of Abdon Gilig; ordering the plaintiffs or any of their representatives to vacate and return the possession of the same to defendant Abdon Gilig;
- d) Ordering the plaintiffs, except the nominal parties herein, to pay to defendant Abdon Gilig the amount of P500.00 a month as reasonable rental of the house in question to be reckoned from February 9, 1968 until the possession of the same is returned to the defendant.
- e) To pay to defendant the amount of P5,000.00 as attorney's fees and to pay the costs.

SO ORDERED.^[1]

On appeal, the Court of Appeals affirmed *in toto* the decision of the RTC.

Hence, this petition.

The petition is devoid of merit.

In resolving the issues, the lower court made the following findings of fact which this Court finds no cogent reason to disturb:

1. That the land in question originally belonged to Lazaro Ba-a who sold the same to the late Pablito (sic) Taneo father of the herein plaintiff on September 18, 1941, by virtue of an Escritura de Venta identified as Reg. Not. 50; pages 53, Foleo Not. V, Series of 1941 of the Notarial Register of Ernie Pelaez (Exh. 10);
2. That on July 19, 1951 Abdon Gilig with his wife filed a Civil Case No. 590 for recovery of property against Pablo Taneo, et al., wherein Judgment was rendered on June 24, 1964, in favor of Abdon Gilig and against Pablo Taneo ordering the latter to pay damages in the amount of P5,000.00 (Exh. 2);
3. That by virtue of said decision, a writ of Execution was issued on November 22, 1965 against the properties of Pablo Taneo and on December 1, 1965, a Notice of Levy was executed by the Clerk of Court Pedro Perez wherein the properties in question were among the properties levied by the Sheriff (Exh. 3);
4. That the said properties were sold at public auction wherein the defendant Abdon Gilig came out as the highest bidder and on February 12, 1965, a Sheriff's Certificate of Sale was executed by Ex-Oficio Provincial Sheriff Pedro Perez (Exh. 1) ceding the said properties in favor of Abdon Gilig and which Certificate of Sale was registered with the Register of Deeds of March 2, 1966;
5. That for failure to redeem the said property within the reglementary period, a Sheriff's final Deed of Conveyance was executed by same Provincial Sheriff Jose V. Yasay on February 1968, (Exhs. 4, 4-A) conveying the property definitely to Abdon Gilig.
6. That on April 20, 1966, after his third-party claim which he filed with the Sheriff in Civil Case No. 590 was not given due course, Rufino Arriola filed Civil Case No. 2667 entitled Arriola vs. Abdon Gilig, et al., for Recovery of Property and/or annulment of Sale with Damages;
7. That Judgment was rendered by the Court thru Judge Bernardo Teves dismissing the case with costs on February 21, 1969;

8. That said decision was appealed to the Court of Appeals which affirmed the decision in toto on June 20, 1979; declaring the alleged Deed of Sale executed by Abdon Gilig in favor of the plaintiff as null and void for being simulated or fictitious and executed in fraud or (sic) creditors;
9. That on March 7, 1964, Pablo Taneo constituted the house in question erected on the land of Plutarco Vacalares as a family home (Exh. F) but was however, notarized only on May 2, 1965 and registered with the Register of Deeds on June 24, 1966;
10. That in the meanwhile, unknown to the defendant, Pablo Taneo applied for a free patent on the land in question which was approved on October 13, 1973, (Exh. B) and the Patent and Title issued on December 10, 1980 (Oct No. P-12820-Exh. 12);
11. On November 3, 1985, the plaintiff filed the present action.^[2]

Petitioners contend that under Section 118 of Commonwealth Act No. 141, the subject land which they inherited from their father under free patent cannot be alienated or encumbered in violation of the law. Citing in particular the cases of *Oliveros v. Porcioncola*^[3] and *Gonzaga v. Court of Appeals*,^[4] the execution or auction sale of the litigated land falls within the prohibited period and is, likewise, a disavowal of the rationale of the law which is to give the homesteader or patentee every chance to preserve for himself and his family the land which the State had gratuitously given to him as a reward for his labor in cleaning and cultivating it.^[5]

We are not unmindful of the intent of the law. In fact, in *Republic v. Court of Appeals*,^[6] the Court elucidated, to wit:

It is well-known that the homestead laws were designed to distribute disposable agricultural lots of the State to land-destitute citizens for their home and cultivation. Pursuant to such benevolent intention the State prohibits the sale or encumbrance of the homestead (Section 116) within five years after the grant of the patent. After that five-year period the law impliedly permits alienation of the homestead; but in line with the primordial purpose to favor the homesteader and his family the statute provides that such alienation or conveyance (Section 117) shall be subject to the right of repurchase by the homesteader, his widow or heirs within five years. This Section 117 is undoubtedly a complement of Section 116. It aims to preserve and keep in the family of the homesteader that portion of public land which the State had gratuitously given to him. It would, therefore, be in keeping with this fundamental idea to hold, as we hold, that the right to repurchase exists not only when the original homesteader makes the conveyance, but also when it is made by his widow or heirs. This construction is clearly deducible from the terms of the statute.

The intent of the law is undisputable but under the facts of the case, the prohibition invoked by the petitioners under Section 118 does not apply to them.

Section 118 of Commonwealth Act No. 141 reads:

Except in favor of the Government or any of its branches, units or institutions, or legally constituted banking corporations, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period, but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations.

x x x.

The prohibition against alienation of lands acquired by homestead or free patent commences on the date of the approval of the application for free patent and the five-year period is counted from the issuance of the patent. The reckoning point is actually the date of approval of the application. In *Amper v. Presiding Judge*,^[7] the Court held that:

x x x The date when the prohibition against the alienation of lands acquired by homesteads or free patents commences is "the date of the approval of the application" and the prohibition embraces the entire five-year period "from and after the date of issuance of the patent or grant." As stated in *Beniga v. Bugas*, (35 SCRA 111), the provision would make no sense if the prohibition starting "from the date of the approval of the application" would have no termination date.

The specific period of five years within which the alienation or encumbrance of a homestead is restricted starts to be computed from the date of the issuance of the patent. But the prohibition of alienation commences from the date the application is approved which comes earlier. (Underlining ours.)

Following this ruling, we agree with the respondent court that the conveyance made by way of the sheriff's sale was not violative of the law. The judgment obligation of the petitioners against Abdon Gilig arose on June 24, 1964. The properties were levied and sold at public auction with Abdon Gilig as the highest bidder on February 12, 1966. On February 9, 1968, the final deed of conveyance ceding the subject property to Abdon Gilig was issued after the petitioners failed to redeem the property after the reglementary period. Pablo Taneo's application for free patent was approved only on October 19, 1973.

The sequence of the events leads us to the inescapable conclusion that even before the application for homestead had been approved, Pablo Taneo was no longer the owner of the land. The Deed of conveyance issued on February 9, 1968 finally transferred the property to Abdon Gilig. As of that date, Pablo Taneo did not actually have anymore rights over the land which he could have transferred to herein petitioners. The petitioners are not the owners of the land and cannot claim to be such by invoking Commonwealth Act No. 141. The prohibition does not apply since it is clear from the records that the judgment debt and the execution sale took place prior to the approval of the application for free patent. We quote with favor the respondent court's valid observation on the matter: