

process a statutory scheme which treats prohibited acts involving opium or heroin differently from the same acts involving marijuana for the purpose of penalizing the latter more severely than the former.

The Trust Territory must insure equal protection of the law to its citizens, 1 TTC § 4, and provide the protection of due process pursuant to the definition given to this phrase in the United States. *Ichiro v. Bismark*, 1 T.T.R. 57 (1953). *Purako v. Efou*, 1 T.T.R. 236 (1955).

It is therefore ordered that the motion to dismiss the case of *Trust Territory of the Pacific Islands v. Mariana R. Bermudes*, Criminal Case No. 306-73, is granted on the basis that the challenged statute constitutes an unlawful delegation of the legislative power, is violative of the equal protection clause, and the complaint against the movant is dismissed.

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JUAN O. SABLAN, Plaintiff

v.

JUAN Q. NORITA, Defendant

Civil Action No. 984

Trial Division of the High Court

Mariana Islands District

July 23, 1974

Action to have conveyance set aside. The Trial Division of the High Court, Burnett, Chief Justice, held that where land was conveyed after issuance of homestead permit and certificate of compliance, but before issuance of deed to homesteader, homesteader could not have the conveyance set aside.

**Homesteads—Restriction Against Alienation**

Where plaintiff was granted a homestead permit and had complied with the requirements for receipt of a certificate of compliance, he had a vested right which could be conveyed or otherwise alienated, and where he conveyed a portion of the land after he received the certificate but before he received the deed he could not have the conveyance set aside.

*Counsel for Plaintiff:* WILLIAM B. NABORS  
*Counsel for Defendant:* ROGER ST. PIERRE

BURNETT, *Chief Justice*

On or about January 6, 1961, plaintiff was granted a homestead permit to certain lands on Saipan, Marianas Islands; Certificate of Compliance was issued on January 6, 1966. Thereafter, prior to issuance of a deed to the homestead parcel, Plaintiff conveyed a portion thereof to the defendant, on January 11, 1968. He received his homestead deed on June 30, 1968. He brings this action to set aside the conveyance to defendant, contending the same to be null and void as contrary to the prohibition set forth in 67 TTC 209.

Section 209, Title 67, reads:

“No rights in or to a homestead permit granted under the provisions of this Chapter shall be sold, assigned, leased, transferred or encumbered, except that in the event of the death of a homesteader prior to the issuance of a deed of conveyance, all rights under the permit shall inure to the benefit of such person or persons, if any, as the homesteader shall last designate in writing filed in the District Land Office. In the event no designation has been made by the homesteader as provided in this Section, then the permit shall be revoked, and the land together with all appurtenances thereto, entered thereunder, shall revert to the Government.”

On pre-trial, defendant stipulated to the facts pled, and moved for dismissal. Pursuant to Order then entered he filed his memorandum of law in support thereof. No memorandum in response has been filed, though directed by the Court.

The sole question is whether a homesteader, having met requirements of law precedent to issuance of a Certificate of Compliance, 67 TTC 208, has an interest subject of conveyance. I conclude that he does, and that this action must therefore fail.

In *Cruz, et al. v. Johnston*, Civil Action 46-73, 6 T.T.R. plaintiff sought an order of this court to require issuance of deeds to lands held under homestead grant, where full compliance was established, and nothing other than the ministerial act of deed execution remained. This court held the plaintiffs entitled to their deeds which, in effect, were nothing more than evidence of the already acquired title.

As to the point here in issue, the government defendants made their position clear in the following terms:

“. . . The homesteader has, at least no later than when he achieves eligibility, an equitable interest in his homestead lands. . . . Nor, having a matured equitable interest in and a right to receive whatever title the government has in the homestead land, can it any longer deprive him of his right to alienate or encumber that interest.”.

*Defendant's Points and Authorities, Cruz, et al. v. Johnston*, Civil Action No. 46-73, pp. 7, 8.

Defendant's brief makes precisely the same point, that receipt of a certificate of compliance constitutes evidence of a vested right which may be conveyed or otherwise alienated. I agree.

I find, as fact, that plaintiff had complied with homestead entry requirements, as evidenced by his certificate of compliance. I find, as a matter of law that, having so complied, he held a title which was his to convey.

So finding, I conclude that his action is without merit and must be dismissed.

Accordingly, defendant's motion is granted. This action must be, and hereby is, dismissed.