

ANTERO IGNACIO, PETITIONER, VS. THE HON. COURT OF APPEALS, LAURENDA BAUTISTA, HONORABLE EXECUTIVE SECRETARY, AND HONORABLE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, RESPON...*G.R. Nos. L-49541-52164. March 28, 1980*

Ponente: ANTONIO, J.

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G.R. No. L-49541 is a special civil action for certiorari, prohibition and mandamus to nullify the resolution of the Court of Appeals, dated July 10, 1978, in CA-G.R. No. Sp-07245,[1] and to direct said court to forward the record of said case to this Supreme Tribunal for resolution, considering that only questions of law are involved. The antecedent proceedings are as follows:

In 1953, the heirs of Fernandez Uguiz (Bilaan), represented by Antero Ignacio, filed a protest with the Bureau of Lands, alleging that the homestead application of Mariano Bautista and the sales application of Anazaria Bautista (parents of private respondent Laurenda Bautista), covering parcels of land in Malita, Davao, overlapped in portions "B" and "C" of the homestead of Fernandez Uguiz. Uguiz had earlier obtained a homestead patent on the property on October 19, 1939 from the Director of Lands. After investigation of the case, a decision was rendered by the Regional Land Officer for Davao excluding portions "B" and "C" from the homestead of Uguiz, giving due course to the application of Mariano Bautista, with respect to portion "B" and approving the sales application of Anazaria Bautista with respect to portion "C". This judgment was affirmed by the Director of Lands in his decision of March 29, 1961. On appeal, the then Secretary of Agriculture and Natural Resources modified the said decision by excluding portion "B" from the homestead application of Mariano Bautista and incorporating the same with the homestead of Uguiz.

On the basis of a motion for reconsideration by the heirs of Uguiz, the respondent Secretary rendered a second decision on December 16, 1970, awarding the questioned portion "C" to the protestants and denying the motion for reconsideration of appellee Mariano Bautista as regards portion "B" for being filed out of time. Subsequently, upon a motion for reconsideration by Anazaria Bautista, the respondent Secretary rendered a third decision on April 30, 1971, declaring that the afore-mentioned portion "C" should be retained as part of the sales application of Anazaria Bautista, and further declaring that as far as the decision dated December 14, 1965 concerning portion "B" is concerned, the same is now final and executory. The heirs of the late Mariano and Anazaria Bautista appealed to the Office of the President.

On January 23, 1973, the Office of the President thru Assistant Executive Secretary Ronaldo B. Zamora, rendered a decision modifying the afore-mentioned decision of April 30, 1971 of the respondent Secretary of Agriculture and Natural Resources by including both contested portions "B" and "C" in the homestead application of the heirs of Fernandez Uguiz and amending the respective applications of the deceased Mariano Bautista and Anazaria Bautista to exclude said portions. Laurenda Bautista filed a motion for reconsideration of said decision

but the same was denied by the respondent Executive Secretary on March 1, 1974.

Alleging that the said decision was rendered "with abuse of discretion and in excess of jurisdiction", Laurenda Bautista, on April 10, 1974, filed a petition for certiorari with the Court of First Instance of Davao against the Executive Secretary, the Secretary of Agriculture and Natural Resources and Antero Ignacio,[2] for the review and annulment of the decision dated January 23, 1973 of respondent Executive Secretary. Respondent officials filed their answer to the above petition and alleged, among others, that petitioner Bautista has no cause of action against them "as she merely charges them with having allegedly committed abuse of discretion" without qualifying it as "grave in nature".

Antero Ignacio, on behalf of the heirs of Fernandez Uguiz, filed a motion to dismiss, alleging that said petition is not sufficient in form and substance and that Solay (Bilaan), one of the heirs of Uguiz, had not been impleaded as a respondent. Laurenda Bautista opposed said motion.

On August 24, 1974, the court a quo, without receiving any evidence, issued an Order dismissing the petition for certiorari for lack of merit as it was defective as to form because the copies of the orders and decisions of the Director of Lands and the respondent officials attached to the petition as Annexes "B", "C", "D", "F", and "H" were not certified true copies;[3] it did not attach the decision of the respondent Secretary of Agriculture and Natural Resources dated December 16, 1970; and it failed to state the findings of fact of the respondent Executive Secretary in his decision, which findings are sought to be reviewed. The court observed that the petition is defective as to substance, as it does not allege any specific error committed by the respondent Executive Secretary in his findings of fact or conclusion, nor does it contain any allegation of facts which would show the acts constitutive of grave abuse of discretion. The trial court further stated that the alleged error committed by respondent public official, if any, is at most merely an error of judgment, not acts of grave abuse of discretion and consequently, not annulable by certiorari.[4]

Upon denial of Laurenda Bautista's motion for reconsideration of the dismissal order, she interposed an appeal to the Court of Appeals.[5] In April, 1978, Laurenda Bautista filed her brief with the Appellate Court. Respondent officials filed their brief on June 26, 1978, alleging that the issues involve questions of law so that the appeal should have been filed with the Supreme Court. Petitioner Antero Ignacio moved with the Court of Appeals that the case be certified to this Court, on the ground that the issues involve questions of law. Ignacio's motion was denied by respondent Court in a Minute Resolution on July 10, 1978. Antero Ignacio came to this Court by way of petition for review (G.R. No. L-49541) to set aside this resolution of the Court of Appeals.

On November 23, 1979, while G.R. No. L-49541 was pending decision by this Court, the Court of Appeals issued a resolution in CA-G.R. No. SP-07245, certifying the appeal to this Court, as follows:

"After a review of the records of this case, we are convinced that the only substantial issue tendered by the Briefs filed by the parties is whether or not the petition for certiorari of petitioner-appellant is sufficient in form and substance, which we view to be a pure question of law and, therefore, beyond the competence of this Court."

This resolution is, in effect, a reversal of the Appellate Court's resolution of July 10, 1978.

We agree that only questions of law are involved in the appeal, for which reason the records thereof were accepted and the case docketed as G.R. No. 52164.

It is evident that the issues raised by herein respondent in her appeal before the Court of Appeals, do not call for an examination of the probative value of evidence. As a matter of fact, no evidence was presented before the trial court. The only issue is the correctness of the legal conclusions drawn or the construction made by the trial judge

of the pleadings or averments in private respondent's petition before said court. For a question to be one of law, it must not involve an examination of the probative value of the evidence presented by the litigants. We have held that there is a question of law when the doubt or difference of opinion arises as to what is the law on a certain state of facts. Upon the other hand, there is a question of fact when the doubt or difference arises as to the truth or falsity of the facts alleged.[6] In view of the foregoing, it is evident that the primary issues raised in G.R. No. L-49541 have become moot and academic.

Considering G.R. No. 52164, or the appeal on the merits, We find that the court a quo did not commit any error in dismissing the petition. As correctly stated by the court a quo, the petition failed to allege any error committed by the respondent Executive Secretary in his findings of fact or conclusions which would constitute a grave abuse of discretion. Section 1 of Rule 65 of the Revised Rules of Court provides that in a petition for certiorari, the facts showing that the tribunal acted without or in excess of its jurisdiction or with grave abuse of discretion must be alleged with certainty. As found by the trial court, the alleged error of the respondent official is at most merely an error of judgment, not constituting grave abuse of discretion and, consequently, not annulable by certiorari.

It is well settled that the findings of fact by the competent executive officials are conclusive upon the courts and not subject to judicial review in the absence of showing that the decision was rendered as a result of fraud, imposition or mistake, other than error of judgment, in estimating the value of the evidence.[7] In other words, decisions of administrative officers should not be disturbed except when they have acted without or in excess their jurisdiction or with grave abuse of discretion.[8] As We have explained in previous case the abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to virtual refusal to perform the duty enjoined or act at all in contemplation of law, as where the power is exercised in an arbitrary or despotic manner, by reason of passion or personal hostility.[9] Not every error in the proceeding or erroneous conclusion of law or fact is abuse of discretion.[10]

In the case at bar, the petitioner failed state enough facts to constitute a prima facie cause of action against respondent Secretary.

WHEREFORE, in view of the foregoing, G.R. No. L-49541 is hereby DISMISSED for being moot and academic; and the decision appealed from in G.R. No. 52164 is hereby AFFIRMED.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Abad Santos JJ., concur.

[1] Entitled "Laurenda S. Bautista v. Executive Secretary, et al."

[2] Civil Case No. 768, entitled "Laurenda S. Bautista v. Executive Secretary, et al."

[3] Section 1, Rule 65, of the Revised Rules of Court.

[4] Vda. de Calibao v. Ballesteros, L-17466, Sept. 18, 1965, 15 SCRA 37; Lopez v. Alvendia, L-20697, Dec. 24, 1964, 124 SCRA 634.

[5] CA-G.R. No. SP-07245, entitled "Laurenda S. Bautista v. Hon. Executive Secretary, et al."

[6] Ramos, et al. v. Pepsi Cola Bottling Co. of the P.I., et al., L-22533, Feb. 9, 1967, 19 SCRA 289, 292.

[7] Balmonte v. Marcelo, L-22240, Nov. 27, 1968, 26 SCRA 63; Ortua v. Singson Encarnacion, No. 39919, Jan. 30, 1934, 59 Phil. 440, 444; Denopol v. Direction of Lands, et al., L-13829, Nov. 28, 1959, 106 Phil. 666, 668; Julian v. Apostol, No. 29040, Dec. 14, 1928, 52 Phil. 422; Vda. de Alfafara v. Mapa, et al., L-7042, May 28,

1954, 95 Phil. 125; *Go Kiong Ochura v. Commissioner of Immigration*, L-21423, Jan. 31, 1968, 22 SCRA 400.

[8] *Commissioner of Customs v. Valencia*, L-7470, Oct. 31, 1956, 100 Phil. 165; *Manabat v. Cruz*, L-11228, April 30, 1958, 103 Phil. 1127 (Unrep.)

[9] *Luna v. Nable*, No. 45601, April 14, 1939, 67 Phil. 340; *Alafriz v. Nable*, No. 47780, June 10, 1941, 72 Phil. 278.

[10] *Villa-Rey Transit, Inc. v. Bello*, L-18957, April 23, 1963, 7 SCRA 735.

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