

AMBROSIO SALUD, PETITIONER, VS. THE HON. EXECUTIVE SECRETARY TO THE PRESIDENT, ET. AL., RESPONDENTS.

G.R. No. L-25446. May 22, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

The crucial issue in this appeal from a decision of October 19, 1965, rendered by the then Judge Agustin P. Montesa of the Court of First Instance of Manila, dismissing an action for certiorari and mandamus is, to paraphrase the brief for respondents-appellees, whether or not a petition for review of an administrative decision is to be filed in the Court of First Instance of the province or city where the officer who rendered the decision holds office or where the real property subject of the litigation is located? It was the view of former Judge Montesa that as the action was one "affecting title to, or for recovery of possession of real property," it should be commenced and tried in the province where it lies. Hence, his order of dismissal now on appeal. It is our view that the answer thus given does not reflect the settled law on the subject. Accordingly, we reverse.

The land, which is the subject matter of this litigation, is located in Quintana, Tanza, Cavite. Petitioner-appellant Salud, alleging that he was the successor in interest of the original applicant, who paid the first installment of the purchase price of such parcel of land of the Sta. Cruz de Malabon Friar Land Estate situated in Tanza, Cavite, sought a recognition of his right from the Director of Lands. He was successful, the decision in his favor being confirmed by the then Secretary of Agriculture and Natural Resources. Upon appeal to the Executive Secretary, however, his fate was otherwise, it being the holding of such official, now respondent-appellee, that the land was open for public sale to the highest bidder. Not satisfied, he instituted a special civil action for certiorari and mandamus, with the lower court, as noted, dismissing such a suit on the ground that as the parcel of land was located in Tanza, Cavite, the Court of First Instance of Manila was without jurisdiction.

To repeat what was stated at the outset, the lower court was far from responsive to what has been so categorically announced by this Court time and time again. The jurisdiction of the Court of First Instance of Manila to decide the matter on the merits far from being dubious is quite clear. So we have held not once but repeatedly.

Thus, in *Dizon v. Bayona*,^[1] the matter in dispute was an application for fishpond permit, covering two parcels of land in Calatagan, Batangas, with the action taken by the Secretary of Agriculture and Natural Resources being challenged in a suit filed with the Manila Court of First Instance. We did rule that "respondent court has jurisdiction * * *." In *Sarabia v. The Secretary of Agriculture and Natural Resources*,^[2] a petition for certiorari to review and set aside or annul the order of respondent was instituted in the Manila Court of First Instance. What was in issue was a fishpond permit issued by such official for a parcel of land in Naujan, Oriental Mindoro. There was no doubt entertained as to the jurisdiction of the lower court, outside the province where the land was located.

In *Suarez v. Reyes*,^[3] the right to a timber concession located in Labason, Zamboanga del Norte, was inquired into in a suit before respondent Judge Reyes of the Rizal Court of First Instance. So it was in *Uichanco v. Secretary of Agriculture and Natural Resources*,^[4] dealing with a sales application of petitioner with the Bureau

of Lands for the purchase of a parcel of public land situated in Victoria, Oriental Mindoro. Due to a protest, such an application was cancelled by the Director of Lands. While respondent Secretary of Agriculture and Natural Resources rein-stated it, a portion thereof was excluded. Petitioner not satisfied brought certiorari proceedings in the Court of First Instance of Manila. There was no question that such a tribunal was possessed of jurisdiction.

The recent case of *Extensive Enterprises Corp. v. Sarbro & Co., Inc.*,^[5] reaffirms the doctrine thus consistently announced. Here the controversy centered on which entity would be given the opportunity of exploiting a tract of public forest with an approxi-mate area of 29,000 hectares situated in Compostela, Province of Davao. There was a public bidding and the Secretary of Agriculture and Natural Resources issued an award in favor of respondent Sarbro & Co., Inc. On appeal to the Office of the President, the then Acting Executive Secretary, by authority of the President, rendered on December 29, 1959, a decision dividing the area in question between Extensive and Sarbro based on his opinion that both corporations appeared to be well qualified to operate the logging area and as a result, he revoked the temporary permit granted to Sarbro for the logging of the entire area, causing it to file a special civil action for certiorari and mandamus with preliminary injunction before the Court of First Instance of Manila. It would thus test the validity of the order of the Acting Executive Secretary. No doubt whatsoever was enter-tained as to the power and competence of the Court of First Instance of Manila to pass on the matter.^[6]

It would thus appear that such a doctrine con-cerning the jurisdiction of the judicial tribunal where the executive official whose decision is sought to be assailed holds office is applied with an undeviating rigidity. No misgivings ought to have been entertained by the then Judge Montesa then as to his jurisdiction to decide the action before him. Either through inadvertence or insufficient awareness of the principle consistently adhered to by this Court, he dismissed the suit precisely on a ground where he was least vulnerable. His order of dismissal as already stated cannot stand.

WHEREFORE, the decision of Judge Montesa of October 19, 1965 dismissing the case for certiorari and mandamus is set aside and the case remanded to the lower court to be determined on its merits. With-out pronouncement as to costs.

Reyes, J.B.L. (Acting C.J.), Dizon, Makalintal, Zaldivar, Sanchez, and Capistrano, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

Concepcion, C.J., and Ruiz Castro, J., on official leave.

[1] 98 Phil. 942 (1956).

[2] 104 Phil. 151 (1958).

[3] 7 SCRA 461 (1963).

[4] 7 SCRA 547 (1963).

[5] 17 SCRA 41 (1966).

[6] Cf. *Bonilla v. Secretary of Agriculture and Natural Resources*, 19 SCRA 836 (1967).

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