

**SERAFIN B. YNGSON, PLAINTIFF-APPELLANT, VS. THE HON.
SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, ANITA
V. DE GONZALES AND JOSE M. LOPEZ, DEFENDANTS-APPELLEES.**

G.R. No. L-36847. July 20, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Court of First Instance of Negros Occidental which upheld the orders of the Secretary of Agriculture and Natural Resources and the Office of the President regarding the disposition of swamplands for conversion into fishponds. Originally taken to the Court of Appeals, the case was elevated to this Court on a finding that only a pure question of law was involved in the appeal.

There is no dispute over the facts. The Court of Appeals adopted the statement of facts in the Solicitor-General's brief. We do the same:

"The subject matter of the case at bar are the same mangrove swamps with an area of about 66 hectares, more or less, situated in sitio Urbaso, barrio Mabini, municipality of Escalante, province of the Negros Occidental. In view of the potentialities and possibilities of said area for fishpond purposes, several persons filed their applications with the Bureau of Fisheries, to utilize the same for said purposes. The first applicant was Teofila Longno de Ligasan who filed her application on January 14, 1946, followed by Custodio Doromal who filed his on October 28, 1947. Both applications were rejected, however, because said area were then still considered as communal forest and therefore not yet available for fishpond purposes.

"On March 19, 1952, petitioner-appellant Serafin B. Yngson filed a similar application for fishpond permit with the Bureau of Fisheries followed by those of the respondents-appellees, Anita de Gonzales and Jose M. Lopez, who filed their respective applications with the same bureau on March 19 and April 24, 1953. When the applications were filed by the aforesaid parties in the instant case, said area was not yet available for fishpond purposes and the same was only released for said purpose on January 14, 1954. The conflicting claims of the aforesaid parties were brought to the attention of the Director of the Bureau of Fisheries who issued an order on April 10, 1954 awarding the whole area in favor of the petitioner-appellant and rejecting the claims of the respondents-appellees (pp. 1-3, Rec. on Appeal). Appellants Anita V. de Gonzales and Jose M. Lopez appealed the order of the Director of Fisheries to the Department of Agriculture and Natural Resources where their appeals were docketed as D.A.N.R. Cases Nos. 901 and 901-A (p. 3, Rec. on Appeal).

"In an order dated April 5, 1955, the Honorable Secretary of the Department of Agriculture and Natural Resources set aside the order of the Director of the Bureau of Fisheries and caused the division of the area in question into three portions giving each party an area of one-third (1/3) of the whole area covered by their respective applications (pp. 4-5, Rec. on Appeal). Appellant filed a petition for review dated July 6, 1955 from the aforesaid order of the Department of Agriculture and Natural Resources but the same was dismissed by the Office of the President of the Philippines on December 20, 1955 (pp. 5-8, Rec. on Appeal). A motion for reconsideration filed by the appellant on February 15, 1956 was likewise denied on August 3, 1956. A second and third motion for reconsiderations filed by the appellant was also denied on August 5, 1958 and October 26,

1960, respectively (p. 18, Rec. on Appeal)."

Not satisfied with one-third of the 66 hectares, Mr. Yngson filed a petition for certiorari with the Court of first Instance against the Executive Secretary, Office of the President, the Secretary of Agriculture and Natural Resources, Anita V. Gonzales, and Jose M. Lopez.

The petitioner-appellant asked that the orders of the public respondents be declared null and void and that the order of the Director of Fisheries awarding the entire area to him be reinstated.

The Court of First Instance of Negros Occidental dismissed the petition on the ground that plaintiff had not established such "capricious and whimsical exercise of judgment" on the part of the Department of Agriculture and Natural Resources and the Office of the President of the Philippines as to constitute grave abuse of discretion justifying review by the courts in a special civil action.

The plaintiff-appellant made the following assignments of errors:

I

THE LOWER COURT ERRED IN HOLDING THAT THE PLAINTIFF HAS NOT ESTABLISHED SUCH 'CAPRICIOUS AND WHIMSICAL EXERCISE OF JUDGMENT' ON THE PART OF THE DEFENDANTS-APPELLEES DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES AND THE OFFICE OF THE PRESIDENT OF THE PHILIPPINES AS TO CONSTITUTE GRAVE ABUSE OF DISCRETION, JUSTIFYING REVIEW THEREOF IN A SPECIAL CIVIL ACTION BY THE COURT.

II

THE LOWER COURT ERRED IN SUSTAINING THE RULE OF THE DEFENDANTS-APPELLEES ADMINISTRATIVE OFFICES IN EFFECT ITSELF HOLDING THAT THE 'PRIORITY RULE' ESTABLISHED IN PARAGRAPHS (a) AND (d), SECTION 14, FISHERY ADMINISTRATIVE ORDER NO. 14 IS NOT APPLICABLE TO FISHPOND APPLICATIONS FILED PRIOR TO THE CERTIFICATION OF THE BUREAU OF FORESTRY THAT THE AREA APPLIED FOR IS AVAILABLE FOR FISHPOND PURPOSES; IN TREATING THE APPLICATIONS OF THE APPELLANT AND THAT OF THE APPELLEES LOPEZ AND GONZALES ON EQUAL FOOTING ONLY AND IN ORDERING THE DIVISION OF THE AREA INVOLVED IN THESE APPLICATIONS INTO THREE EQUAL PARTS AWARDING ONE-THIRD SHARE EACH TO THESE APPLICANTS.

III

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT.

Did the administrative agencies having jurisdiction over leases of public lands for development into fishponds gravely abuse their discretion in interpreting and applying their own rules? This is the only issue in this case.

The pertinent provisions of Fisheries Administrative Order No. 14 read:

"SEC. 14. — PRIORITY RIGHT OF APPLICATION.— In determining the priority of application or right to a permit or lease the following rules shall be observed:

""(a) When two or more applications are filed for the same area, which is unoccupied and unimproved, the first applicant shall have the right of preference thereto.

.....

""(d) A holder of fishpond application which has been rejected or cancelled by the Director of Fisheries by reason of the fact that the area covered thereby has been certified by the Director of Forestry as not available

for fishpond purposes, SHALL NOT LOSE his right as a PRIOR APPLICANT therefore, if LATER ON, the area applied for is certified by the Director of Forestry as available for fishpond purposes, provided that not more than one (1) year has expired since the rejection or cancellation of his application, in which case, his fishpond application, which was rejected or cancelled before, shall be reinstated and given due course, and all other fishpond applications filed for the same area shall be rejected."

The five applicants for the 66 hectares of swampland filed their applications on the following dates:

- Teofila L. de Ligasan — January 14, 1946
- Custodio Doromal — October 28, 1947
- Serafin B. Yngson — March 19, 1952
- Anita V. Gonzales — March 19, 1953
- Jose M. Lopez — April 24, 1953

The mangrove swampland was released and made available for fishpond purposes only on January 14, 1954. It is clear, therefore, that all five applications were filed prematurely. There was no land available for lease permits and conversion into fishponds at the time all five applicants filed their applications.

After the area was opened for development, the Director of Fisheries inexplicably gave due course to Yngson's application and rejected those of Anita V. Gonzales and Jose M. Lopez. The reason given was Yngson's priority of application.

We see no error in the decision of the lower court. The administrative authorities committed no grave abuse of discretion.

It is elementary in the law governing the disposition of lands of the public domain that until timber or forest lands are released as disposable and alienable neither the Bureau of Lands nor the Bureau of Fisheries has authority to lease, grant, sell, or otherwise dispose of these lands for homesteads, sales patents, leases for grazing or other purposes, fishpond leases, and other modes of utilization. (*Mapa v. Insular Government*, 10 Phil. 175; *Ankron v. Government of the Philippine Islands*, 40 Phil. 10; *Vda. de Alfara v. Mapa*, 95 Phil. 125; *Director of Forestry v. Muñoz*, 23 SCRA 1184).

The Bureau of Fisheries has no jurisdiction to administer and dispose of swamplands or mangrove lands forming part of the public domain while such lands are still classified as forest land or timberland and not released for fishery or other purposes.

All the applications being premature, not one of the applicants can claim to have a preferential right over another. The priority given in paragraph "d" of Section 14 is only for those applications filed so close in time to the actual opening of the swampland for disposition and utilization, within a period of one year, as to be given some kind of administrative preferential treatment. Whether or not the administrative agencies could validly issue such an administrative order is not challenged in this case. The validity of paragraph "d" is not in issue because petitioner-appellant Yngson is clearly not covered by the provision. His application was filed almost two years before the release of the area for fishpond purposes. The private respondents, who filed their applications within the one-year period, do not object to sharing the area with the petitioner-appellant, in spite of the fact that the latter has apparently the least right to the fishpond leases. As a matter of fact, the respondent Secretary's order states that all three applications must be considered as having been filed at the same time on the day the area was released to the Bureau of Fisheries and to share the lease of the 66 hectares among the three of them equally. The private respondents accept this order. They pray that the decision of the lower court be affirmed in toto.

The Office of the President holds the view that the only purpose of the provision in question is to redeem a rejected premature application and to consider it filed as of the date the area was released and not to grant a premature application a better right over another of the same category. We find such an interpretation as an exercise of sound discretion which should not be disturbed. In the case of *Salaria v. Buenviaje* (81 SCRA 722) we reiterated the rule that the construction of the officer charged with implementing and enforcing the provision of a statute should be given controlling weight. Similarly, in *Pastor v. Echavez* (79 SCRA 220) we held that in the absence of a clear showing of abuse, the discretion of the appropriate department head must be respected. The records show that the above rulings should also apply to the present case.

During the pendency of this petition, petitioner Yngson filed a motion to have Patricio Bayoborda, Rene Amamio, and nine other respondents, declared in contempt of court. Petitioner charged that Bayoborda and Amamio entered the property in controversy and without petitioner's consent, laid stakes on the ground alleging that the same were boundaries of the areas they were claiming; that the other respondents likewise entered the property on different dates and destroyed petitioner's hut and the uppermost part of his fishpond and started to build houses and to occupy the same. In their comment, the respondents in the contempt motion denied petitioner's charges. Bayoborda and Amamio stated that they were bona-fide applicants for fishpond purposes of areas outside the 22 hectares allotted for the petitioner and that they were authorized to place placards in the areas they applied for. As evidence the respondents attached a copy of the resolution of the Presidential Action Committee on Land Problems (PACLAP) showing that their applications have been duly received and acknowledged by the latter and in compliance with government regulations, they placed markers and signs in their respective boundaries. The resolution likewise stated that these markers and signs were subsequently destroyed and later on Mr. Yngson started development by building dikes in the area applied for, which he has no authority to do so due to the present conflict. The resolution further prohibited Yngson from constructing any improvements in any area outside his 22 hectares and also prohibited Bayoborda and Amamio from entering and making constructions in the applied for areas pending the issuance of their permits.

The petitioner has failed to show that the acts committed by the respondents were a direct disturbance in the proper administration of justice and processes of the law which constitutes contempt of court. If there were any violations of petitioner's rights, he should resort to PACLAP which issued the resolution between him and respondents or file, as he alleged he did, a criminal complaint or other action before the courts. The motion also raises factual considerations including boundaries and geographical locations more proper for a trial court.

We have held that contempt of court presupposes contumacious and arrogant defiance of the court. (*De Midgely v. Ferandos*, 64 SCRA 23; *Matutina v. Judge Buslon*, 109 Phil. 140, 142)

The petitioner has failed to show a contempt of court which we can take cognizance of and punish. If any of his property or other rights over his one-third's share of the disputed property are violated, he can pursue the correct action before the proper lower court.

WHEREFORE, the judgment appealed from is hereby AFFIRMED. The motion for contempt is also DENIED for lack of merit. Costs against petitioner-appellant.

SO ORDERED.

Teehankee (Chairman), Plana, Escolin and Relova, JJ., concur.
Melencio-Herrera and Vasquez, JJ., on leave.

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