

SAMUEL BONIEL, PETITIONER, VS. THE HONORABLE MANASES G. REYES, JUDGE OF THE COURT OF FIRST INSTANCE OF DAVAO, AND THE DIRECTOR OF LANDS, RESPONDENTS.*G.R. No. L-28400. September 30, 1970*

Ponente: TEEHANKEE, J.

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Original action of certiorari to set aside respondent court's dismissal order.

Petitioner, with six other co-petitioners had filed under date of November 15, 1966 with respondent court a "petition for review and annulment of original certificate of title No. P-18131, Registry of Deeds of Davao" which was docketed as Miscellaneous Case No. 2813 thereof.

Petitioners therein alleged to be the bona-fide actual occupants and cultivators of a 46.2877-hectare parcel of public agricultural land designated as Lot No. SI-17618-D and located at Bo. Langka, Lupon, Davao province, and that on October 12, 1965, one Ramon Ombay, late husband of co-petitioner Mauricia Ombay, had filed a free patent application for the land; that sometime on September 11, 1964, one Rafael S. Yap had clandestinely filed a sales application for the very same parcel of land, which was favorably endorsed by the land inspector of the Bureau of Lands who certified in the records the findings of his investigation as to the absence of any claimants of the land; and that as a result of such alleged fraud and collusion between Yap and the bureau personnel, Yap was issued the sales patent in December, 1965 and the corresponding original certificate of title No. P-18131 on February 11, 1966. Petitioners prayed of respondent court that it annul Yap's title and instead award the land to them.

No summons were issued, since no adverse parties were impleaded by petitioners. The Director of Lands, however, having apparently been informed of the petition, filed through counsel under date of March 25, 1967 a motion to dismiss the petition, on the ground that respondent court had no jurisdiction over the subject matter, since a petition for review of the director's action of issuance of sales patent and for annulment of title may not be availed of under the summary proceedings provided by section 112 of the Land Registration Act for non-controversial matters - nor jurisdiction over his person because he had not been made either a defendant or respondent in the case, nor had summons been served upon him. The Director in a supplemental petition further urged the dismissal of the petition on grounds of non-exhaustion by petitioners of administrative remedies, petitioners' lack of legal capacity and personality to institute the petition and lack of cause of action.

Respondent court in its order of May 30, 1967 overruled petitioners' opposition which contended that their petition for review "within one year after entry of the decree of registration" was properly filed under the provisions of Section 38 of the Land Registration Act, and dismissed the petition, noting that from the very petition, the land claimed was not private property but public land. Petitioners, after the denial of their motion for reconsideration by respondent court's order dated June 30, 1967, sought to perfect an appeal to this Court but respondent court sustained in its order of September 9, 1967 the Director of Land's opposition that the record on

appeal and appeal bond had been filed out of time on the ground that petitioners' motion for reconsideration was mere pro forma and did not toll the 30-day reglementary period for appeal.

Hence, the present petition by petitioner Boniel, wherein he mainly insists that respondent court properly acquired jurisdiction, through his petition below, over the subject matter of the action and over the person of the Director of Lands. The Solicitor-General having failed to file an answer through some inadvertence, as special attorney Buenaventura M. Gonzalez of the Bureau of Lands office in Davao City handled the incidents in the lower court, the case was deemed submitted for decision without respondents' answer.

The petition clearly must fail. Respondent court did not err, much less act with grave abuse of discretion, in dismissing the petition, since petitioner plainly violated the elementary rules of procedure in seeking through a unilateral petition to annul the certificate of title duly issued to Rafael S. Yap as sales patentee, instead of filing an ordinary action impleading Yap and the Director of Lands as indispensable parties without whom no final determination of the action could be had,[1] assuming petitioner had a cause of action. Controversial issues such as those raised by petitioner seeking to divest a third person of his registered title may not be brought in summary or self-styled miscellaneous unilateral proceedings.[2]

Section 38 of the Land Registration Act (Act No. 496) could not properly be invoked by petitioner for his unilateral petition for re-view of the decree of registration, since the same applies only when by virtue of a decree of registration issued by a court in a land registration proceeding, whether original or compulsory, a person claims to have been deprived of the land or an interest therein, in which case within one year from entry of the decree he may in the same proceeding ask for review and the issuance of the decree in his own name and implead the adverse party. But here, the land is not claimed to be private property of petitioner nor of his co-petitioners but was admittedly formerly a part of the alienable and disposable public land awarded under sales patent to Yap.

Accordingly, since petitioner and his co-petitioners make no claim of their application for a free patent to the land having been approved nor of a patent in their favor having been awarded, they had no valid cause of action to file an action for annulment of Yap's patent and for cancellation of the title issued to Yap by virtue thereof. Their claim based on alleged fraudulent issuance of title to the public land in favor of Yap should be addressed in proper administrative proceedings to the Director of Lands, who if he finds the claim substantiated, may then take the necessary steps towards the reversion of the land to the public domain, and petitioners may then press for favorable action on their application and the award of the land to them. The mere reversion of the land to the State would not entitle them of itself to an award of the land to them, which is beyond respondent court's jurisdiction.[3]

By virtue of this resolution of the basic issues of the case and on the correctness of respondent court's action in dismissing the petition, it becomes unnecessary to rule on the secondary issue whether petitioner's appeal was improperly disallowed by respondent court. Likewise, by virtue of the Court's disposition of the case, the recent motion filed on July 28, 1970 by Rafael S. Yap for leave to intervene in the case as an indispensable party, alleging that he only very recently learned of the pendency of the case at bar, need not be acted upon.

WHEREFORE, the petition for certiorari is hereby denied. No costs.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Ruiz Castro, Fernando, Barredo, and Makasiar, JJ., concur.
Concepcion, C. J., and Villamor, J., are on leave

[1] Rule 2, sec. 1; Rule 3, secs. 2 and 7, Rules of Court.

[2] See: Re petition for cancellation, Bishop of Moncadian Church of the Phil. Inc., L-26543-44, July 31, 1970; Vicente vs. de los Santos, 27 SCRA 1 (1969) and cases cited.

[3] Gamao vs. Calamba, L-13349, Sept. 30, 1960 (109 Phil. 542); Rellin vs. Cabigas, L-15926, Oct. 31, 1960, (109 Phil. 1128); Director of Lands vs. Luna, L-14641, Nov. 23, 1960; Sumail vs. Judge of Court of First Instance of Cotabato, L-8278, Apr. 30, 1955 (96 Phil. 946).

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