

THE DIRECTOR OF LANDS, PETITIONER, VS. LEONOR GONZALES AND THE REGISTER OF DEEDS OF COTABATO, RESPONDENTS.

G.R. No. L-32522. January 28, 1983

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sets aside the appealed order of dismissal of petitioner director's complaint for cancellation of Free Patent No. V-309916 and Original Certificate of Title No. 26990. The lower court erred in ordering the dismissal of the case on the ground that petitioner Director of Lands lost personality to continue with the prosecution of the case after the passage of Republic Act No. 5412, which created the City of General Santos, whereby the ownership and possession of all lands of the public domain within the city limits were ceded to the city government. Since the Director of Lands is the officer vested with the administration and disposition of all lands of the public domain on behalf of the Republic of the Philippines, he remains to be the proper party in interest to seek in the cancellation of the free patent and certificate of title issued in the name of respondent Leonor C. Gonzales even after the approval and effectivity of Republic Act No. 5412 and for the reversion of the land to the Republic.

On August 22, 1966, the Director of Lands instituted the complaint for the cancellation of free patent and nullification of the original certificate of title issued in favor of defendant Leonor C. Gonzales (now respondent) alleging that the free patent was secured through fraud and misrepresentation in that respondent testified that she had continuously occupied and cultivated the entire land since 1940 and that there were no adverse claimants thereto, whereas in truth, she had never occupied, much less cultivated and improved the land applied for which was later on titled in her name.

On September 10, 1966, respondent Leonor C. Gonzales filed an answer denying the allegations in the complaint and on April 11, 1969, she filed a motion to dismiss, alleging that the Director of Lands has no legal right to continue with the action for the cancellation of the free patent because with the creation of the City of General Santos, the ownership and possession of all lands of the public domain within the City of General Santos had been ceded by the national government to the city and therefore, the action was no longer prosecuted by the real party in interest. The lower court upheld the contention of respondent Leonor C. Gonzales and on May 3, 1969, ordered the dismissal of the case. The motion for reconsideration filed by the Director of Lands was denied. Hence, the present petition which is herein granted.

Undoubtedly, the Director of Lands is the proper party to bring an action to cancel a patent and the certificate of title issued in accordance therewith.[1] This authority emanates from the provision of Commonwealth Act No. 141, particularly Section 3 thereof, which provides that the Secretary of Agriculture and Commerce shall be the executive officer charged with carrying out the provision of the Act through the Director of Lands, who should act under his immediate control. Also, under Section 4 of said law, the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of lands of the public domain.

The law does not distinguish whether lands of the public domain belong to the national government or to any branch of the local government (which are mere creatures of the State) in providing that the Director of Lands may properly prosecute cases for the annulment of free patent and nullification of certificate of title. Where the law does not distinguish, we should not also distinguish. *Ubi lex non distinguit, nec nos distinguere debemus.*

Then Solicitor General (later a member of this Court) Felix Q. Antonio correctly asserted that "even it be assumed that the land in question was deemed ceded to the City of General Santos, still, the authority of the Director of Lands to file actions for reversion remains existing, though, of course, in the event that final judgment is entered reverting the land in question to the public domain, it shall then pertain to the City of General Santos and not to the national government."

In the case at bar, in the event that the patent and title awarded to respondent Leonor C. Gonzales are found to be null and void, as contended by petitioner Director of Lands, it would be as if no patent and title were issued. It would follow that the land in question never ceased to be part of the public domain and never became private property of the private respondent. It would, therefore, be deemed included among lands of the public domain ceded by the State through the national government to the City of General Santos under Republic Act No. 5412, which however remain under the ultimate control and disposition of the State. A void free patent and certificate of title do not divest the State of its ownership of the land nor does it operate to change the public character of the land to that of private. Thus, the Director of Lands retained his authority to prosecute the case commenced by him even after the approval and effectivity of Republic Act No. 5412.

ACCORDINGLY, the appealed order dismissing Civil Case No. 724 is hereby set aside and the case is remanded to the court of origin for further proceedings and determination on the merits. No costs.

Melencio-Herrera, Relova, and Gutierrez, Jr., JJ., concur.

Vasquez, J., concurs in separate opinion.

Plana, J., is on official leave.

[1] See: Director of Lands vs. Benitez, 63 O.G. No. 25, pp. 5340-5343 (March 31, 1966); Director of Lands vs. Martin, 84 Phil. 140, (June 28, 1949); Director of Lands, et al. vs. Rizal, 87 Phil. 806 (Dec. 29, 1950); Director of Lands vs. Tan Tan, 89 Phil. 184 (May 30, 1955).

CONCURRING OPINION

VASQUEZ, J.:

I concur in the result.

From the facts gathered in the main opinion, it appears that the free patent and the certificate of title issued in the name of respondent Leonor Gonzales were issued before the passage of Republic Act No. 5412. The issuance of said title converted the land covered thereby into a private land and the same ceased to be land of the public domain. When Republic Act No. 5412 was enacted, therefore, the lands of the public domain within the city limits of the City of General Santos, the ownership and possession of which had been ceded to the city government, did not include the parcel of land previously covered by the certificate of title in the name of the respondent Leonor Gonzales.

The City of General Santos never acquired ownership of the said land and accordingly lacked the personality to seek a cancellation of the free patent and certificate of title issued over the same. It will be considered owner of

the said land only if the action to annul the title of the respondent thereto shall succeed, in which event, the land will revert to its original status as part of the public domain. For this reason, I agree that the proper party to bring the action for the cancellation of the said free patent and certificate of title is the Director of Lands and not the City of General Santos.

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