

IRENEO ROQUE, PETITIONER-APPELLANT, VS. THE HONOR-ABLE, THE DIRECTOR OF LANDS; THE HONOR-ABLE, THE ASSISTANT EXECUTIVE SECRETARY TO THE PRESIDENT AND JOSE FACUN, RESPONDENTS-APP...*G.R. No. L-25373. July 01, 1976*

Ponente: FERNANDO, J.

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The appealed decision of the lower court,[1] dismissing a certiorari petition against the Assistant Executive Sec-retary of the President for sustaining the award by the Director of Lands of a homestead application and thus overruling the Secretary of Agriculture and Natural Re-sources, has in its favor conformity with the policy of the law as reiterated in a host of cases. Petitioner, himself a previous beneficiary of the statute, would seek to add to his holding by a sales application. The prevailing party, private respondent Jose Facun, on the other hand, had applied for the disputed lot as a homesteader as far back as 1935, and had submitted his final proof in 1948. To put the matter thus is to indicate the fate in store for this appeal. There would be no justification both in law and in conscience for a reversal. To contend that the Office of the President, through respondent Assistant Executive Sec-retary, lacks the power to overrule the Department of Agriculture and Natural Resources is to betray lack of awareness of the implications of what Justice Laurel re-ferred to in Villena v. Secretary of the Interior[2] as "the establishment [in the Philippines] of a single, not plural, Executive." [3] As was further stressed by him: "Without minimizing the importance of the heads of the various departments, their personality is in reality but the projection of that of the President." [4] What was asserted then by petitioner, now appellant, is, to put it at its mildest, highly unorthodox. We affirm.

The nature of the case was set forth in the decision thus: "This is a special civil action for certiorari filed by Ireneo Roque, as petitioner, v. the Honorable Director of Lands, the Honorable Assistant Executive Secretary to the President and Jose Facun, as respondents, praying that, after due hearing, the order of the respondent Honorable Director of Lands * * * and the decision of the respondent Honorable Assistant Executive Secretary, * * * be set aside on the alleged ground that the said order of the Director of Lands was issued with grave abuse of discretion, consisting of unqualified reliance and the biased report and re-commendation of the Assistant Public Land Inspector Andres V. Arias, *** and on the factual allegation that the said decision of the Honorable Executive Secretary exceeded his jurisdiction and committed a grave abuse of discretion, arbitrarily disregarding the sales award of the land in question in favor of the herein petitioner having already paid in full the price of the same, * * * and praying further that the decision of the Honorable Secre-tary of Agriculture and Natural Resources be sustained. * * * Respondent Jose Facun, through Atty. Cipriano A. Tan, filed an answer to the petition denying specifically the allegation of paragraph 6 of the petition, and specifically denying petitioner's aforequoted allegations Re: abuse of discretion, arbitrariness and excess of jurisdiction. The Honorable Director of Lands, through his counsel Atty. Ernesto Llaguno, submitted an answer specifically denying paragraphs 3 and 12 of the petition and its averments concerning abuse of discretion, arbitrariness, and excess of jurisdiction. The Honorable

Assistant Executive Secretary to the President, through Assistant Solicitor General Pacifico P. de Castro, and then Solicitor Isidro C. Borromeo, recently promoted as Assistant Solicitor General, filed an answer denying specifically the alleged paragraphs 3, 10, 12 and 13 of the petition, and likewise denying emphatically and specifically petitioner's assertion of abuse of discretion, arbitrariness and lack of jurisdiction. They alleged the following affirmative defenses: (1) Petition states no cause of action; and (2) Assuming arguendo that it states a cause of action, the decision of the Assistant Executive Secretary is perfectly valid."[5] The contention of petitioner was then set forth: "Petitioner's counsel maintains that the order of the District Land Officer had already become final and executory, hence, the order of the Director of Lands reversing the order of the District Land Officer is in violation of Lands Administrative Order No. 6."[6]

The appealed decision, after taking note of the conclusion arrived at by respondent Director of Lands, quoted from the order of respondent Assistant Executive Secretary. This is the relevant portion: "It is noteworthy that Lands Inspector Cruz who investigated the case in 1948 was the same investigator, who inspected appellant's entire homestead a year earlier and recommended the issuance of a patent herefor. If it is true that the appellee [Petitioner Roque] had been in occupation of the disputed portion since 1937, then the investigator would not have re-commended the issuance of a patent to the appellant for the whole of Lot No. 4507. Likewise, it is significant to note that the appellant [Respondent Facun] filed his homestead application in 1935 and submitted the final proof therefor in 1939. On the other hand, the appellee [Roque] submitted his sales application for the disputed portion in 1948, only during the course of the investigation of his protest. If it were true that he had occupied the disputed portion since 1937, he could have filed his application earlier, it appearing that he is also the applicant of another lot adjoining Lot No. 4507. Moreover, it was verified during the reinvestigation of this case that the appellee [Roque] entered upon the disputed portion in 1951 only."[7] There should then be conclusiveness of such finding, according to the appealed decision, "when approved by the Office of the President, through his Executive Secretary, or Assistant Executive Secretary, [representing] the Highest Magistracy of the Land, and the personification of the sovereignty of the Republic of the Philippines."[8]

As set forth at the outset, there is no justification for a reversal. The facts argue against it and the law, in accordance with the mandate of the Constitution no less, is on the side of private respondent Facun.

1. It would be a plain defiance of the settled policy of the law if the homestead application of private respondent Facun would not be honored and the sales application of petitioner Roque sustained. Justice Malcolm, as ponente, in *Aquino v. Director of Lands*,[9] decided in 1919, stressed that homestead applicants, "poor men with a legitimate ambition to acquire homes are [not to be] discouraged." [10] If it were otherwise, the result would be "agrarian troubles and internal strife" [11] because of the natural discontent of the masses. "The object and purpose of the homestead law," according to him, "is to encourage residence upon and the cultivation and improvement of the public domain." [12] That "paramount public purpose" [13] should not be nullified by the courts. That approach has commended itself to this Tribunal in all subsequent cases. [14] This Court has even gone so far as to rule in *Government of the Philippine Islands v. Franco*, [15] speaking through Justice Street: "There is indeed some authority for this point of view, but the better doctrine, revealing the drift of the later cases, is to the contrary; and it is now held, by the better considered decisions, that a person who takes possession of land in the erroneous belief that it is public land, with the intention of holding and claiming it under the homestead law, may acquire title thereto by adverse possession as against the true owner." [16] Earlier, in *Balboa v. Farralles*, [17] it was held: "A perfected valid appropriation of public lands operates as a withdrawal of the tract from the body of the public domain and, so long as such appropriation remains valid and subsisting, the land covered thereby is deemed private property. A perfected homestead, under the law, is property in the highest sense, which may be sold and conveyed and will pass by descent. It has the effect of a grant of the right to present and exclusive possession of said land. A valid and subsisting perfected homestead, made and kept up in accordance with the provisions of the

statute, has the effect of a grant of the present and exclusive possession of the land. Even without a patent, a perfected homestead is a property right in the fullest sense, unaffected by the fact that the paramount title to the land is in the Government. Such land may be conveyed or inherited." [18] The strength of the claim of private respondent Facun is thus quite obvious if deference be paid to previous authoritative pronouncements of this Court. That was all that the lower court did.

2. With such formidable, not to say insurmountable, obstacle confronting petitioner Roque, it is understandable why he would seize on what could be a legal loophole, however tenuous, as an avenue of escape. Unfortunately for him, he came out with the theory that can only be characterized as a constitutional heresy. It is his contention that respondent Assistant Executive Secretary, acting for the President, could not reverse a decision of the Secretary of Agriculture and Natural Resources. The doctrine so clearly and emphatically announced by Justice Laurel in the aforecited Villena decision [19] is precisely the opposite. Thus: "After serious reflection, we have decided to sustain the contention of the government in this case on the broad proposition, albeit not suggested, that under the presidential type of government which we have adopted and considering the departmental organization established and continued in force by paragraph 1, section 12, Article VII, of our Constitution, all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or the law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive." [20] Clearly then, there is nothing to prevent the President to disapprove or reprobate the act of a department head. That was what happened in this case. What was said in a 1970 decision, *Tecson v. Salas*, [21] concerning the broad executive authority is still good law; "the Villena ruling applies with undiminished force." [22] It cannot be otherwise, considering the plain and explicit command of the 1935 Constitution that the President has "control of all the executive departments, bureaus or offices, * * *." [23] What it signifies was enunciated in categorical language by former Chief Justice Concepcion in *Pelaez v. Auditor General*: [24] "The power of control under this provision implies the right of the President to interfere in the exercise of such discretion as may be vested by law in the officers of the executive departments, bureaus, or offices of the national government, as well as to act in lieu of such officers." [25] This is not to dabble in generalities. Neither is it to rely merely on logical inferences to a constitutional concept of major dimension. There is quite a number of cases where precisely from a decision of the Secretary of Agriculture and Natural Resources, an appeal was taken to the Office of the President. [26] To argue as petitioner Roque did then is to indulge in a futile endeavor.

3. That is all there is then to his case, if it may be called that. There is, in addition, one other error assigned. It can also be disposed of quite easily. He would impress finality on the decision of the Secretary of Agriculture and Natural Resources reversing the award made in respondent Facun's favor by the Director of Lands. No such error could possibly be imputed to the lower court as no such question was therein raised. As noted in the opening paragraph of the appealed decision herein cited, petitioner Roque objected to the order of the Director of Lands, asserting that it was issued with grave abuse of discretion, characterizing it as the result of an "unqualified reliance [on the] report and recommendation" of a certain public lands inspector. [27] Apparently, during the trial, he raised as one of the legal questions the finality of the order of a district land officer, which was reversed by the Director of Lands, who made the award in favor of respondent Facun: "Petitioner's counsel maintains that the order of the District Land Officer had already become final and executory, hence, the order of the Director of Lands reversing the order of the District Land Officer is in violation of Lands Administrative Order No. 6." [28] The lower court, after considering the matter, found against him: "All the exhibits of the petitioner do not show

when Jose Facun and Ines Yarcia received copies of the said order. Hence, they do not show that the said order has become final." [29] How then could it be plausibly contended that the lower court was in error in not according finality to the decision of the Secretary of Agriculture and Natural Resources when that was never an issue before it? There can be no relevance therefore to that portion of petitioner's brief making reference to the dates as to when such decision was allegedly received by respondent Facun. Even if such were not the case, however, what he cited was Section 14 of Lands Administrative Order No. 6, which would allow the Secretary of Agriculture and Natural Resources to relieve the party or his legal representative from a decision, order, or other proceeding if there be a mistake, inadvertence, surprise, default, or executive neglect, with the proviso that the application for that purpose should be made within a reasonable time, but in no case exceeding one year. From his own computation, only two months elapsed from the date the appeal was taken to the Office of the President. He still had then a period of ten months within which to seek a reconsideration of the decision of the Secretary of Agriculture and Natural Resources. Thus, when matters are seen in their true light, it becomes apparent why, as was made clear at the start, a reversal of the appealed decision cannot in law or in conscience be justified.

WHEREFORE , the appealed decision is affirmed. This decision is immediately executory. Costs against petitioner Ireneo Roque.

Antonio, Muñoz Palma, Aquino, and Martin, JJ, concur.

Barredo, J., did not take part.

Concepcion Jr., J., is on leave.

[1] The direct appeal was taken on a question of law before the effectivity of Republic Act No. 5440 (1968) which has conferred on this Court certiorari jurisdiction.

[2] 267 Phil. 451 (1939).

[3] Ibid , 464.

[4] Ibid .

[5] Decision, Appendix A, Brief for Petitioner-Appellant, 37-39.

[6] Ibid , 46-47.

[7] Ibid, 54-56.

[8] Ibid, 57.

[9] 39 Phil. 850.

[10] Ibid, 861.

[11] Ibid.

[12] Ibid.

[13] Ibid. Cf. Director of Lands v. Absolo, 46 Phil. 282 (1924).

[14] Cf. Ruiz v. Dalio, 45 Phil. 523 (1923); Manalo v. Lukban, 48 Phil. 973 (1924); Julian v. Apostol, 52 Phil. 422 (1928); Government of the Phil. Islands v. Abran, 56 Phil. 397 (1931); El Hogar Filipino v. Olviga, 60 Phil. 17 (1934); W. F. Stevenson and Co. v. Rodriguez, 63 Phil. 877 (1936); Ramoso v. Obligado, 70 Phil. 86 (1940); Balela v. Aquino, 71 Phil. 69 (1940); Mariano v. Director of Lands, 72 Phil. 101 (1941).

[15] 57 Phil. 780 (1933).

[16] Ibid, 783. The title involved arose from a possessory information.

[17] 51 Phil. 498.

[18] Ibid, 503.

[19] 67 Phil. 451 (1939).

[20] Ibid, 463.

[21] L-27524, July 31, 1970, 34 SCRA 275.

[22] Ibid , 283. The following cases were cited: Marc Donnelly and Associates Agregado, 95 Phil. 142 (1954); Cabansag v. Fernandez, 102 Phil. 151 (1957); Acting Collector of Customs v. Court of Tax Appeals, 102 Phil. 244 (1957); Commissioner of Customs v. Auyong Hian, 105 Phil. 561 (1959); People v. Jolliffe, 105 Phil. 677 (1959); Demaisip v. Court of Appeals, 106 Phil. 237 (1959); Juat v. Land Tenure Administration, L-17080, Jan. 28, 1961, 1 SCRA 361; Tulawie v. Provincial Agriculturist of Sulu, L-18945, July 31, 1964, 11 SCRA 611; Lacson-Magallanes Co. v. Paño, L-27811, Nov. 17, 1967, 21 SCRA 895. Since then, three other decisions were rendered: Lim, Sr. v. Secretary of Agriculture and Natural Resources, L-26990, Aug. 31, 1970, 34 SCRA 751; Barte v. Dichoso, L-28715, Sept. 28, 1972, 47 SCRA 77; Philippine American Management Company v. Philippine American Management Employees Association, L-35254, May 25, 1973, 51 SCRA 98.

[23] Art. VII, Section 10, par. 1 of the 1935 Constitution provides: "The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed."

[24] L-23825, December 24, 1965, 15 SCRA 569.

[25] Ibid, 582.

[26] Cf. Heirs of B.A. Crumb v. Rodriguez, 105 Phil. 391 (1959); Pajo v. Ago, 108 Phil. 905 (1960); Ham v. Bachrach Motor Co., Inc., 109 Phil. 949 (1960); Extensive Enterprises Corp. v. Sanbro & Co., Inc., L-22383, May 16, 1966, 17 SCRA 41; Desiata v. Executive Secretary, L-21894, Feb. 28, 1967, 19 SCRA 487; Macailing v. Andrada, L-21607, Jan. 30, 1970, 31 SCRA 126; Lim, Sr. v. Secretary of Agriculture and Natural Resources, L-26990, Aug. 31, 1970, 34 SCRA 751; Lacuesta v. Herrera, L-33646, Jan. 28, 1975, 62 SCRA 115.

[27] Decision, Appendix A to the Brief for the Petitioner-Appellant, 38.

[28] Ibid, 46-47.

[29] Ibid, 48-49.

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