

THE GOVERNMENT OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS, EZRA P. NABUS, TOMAS NABUS, JUDITH BAYOTE, GADGAD COSTINA, BETTY CHACHAKEN, SIMY VISAYA, CHALMIS DAKIAS,...

G.R. No. L-13836. May 20, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is a petition by certiorari to reverse the decision of the Court of Appeals in CA-G. R. No. 11808-R, Government of the Philippines vs. Ezra P. Nabus, et al., dismissing the appeal instituted by the defendants-appellants against a judgment of the Court of First Instance of Baguio, Hon. Hermogenes Concepcion, presiding, ordering the defendants to vacate a parcel of land subject of the action and prohibiting them from interfering with and disturbing the plaintiff and its agents in the enjoyment and possession of the land in question.

The subject of the action, which originated in the justice of the peace court as a forcible entry and detainer, is a portion of land about five hectares in area, which is included in the Trinidad Agricultural High School reservation, reserved for school purposes and utilized by said school partly for planting grasses for cattle and partly for the planting of vegetables. The school reservation was created by Executive Order Nos. 26 and 99 as early as 1914, although the defendant Ezra Nabus claims that she had always possessed it, having inherited it from her predecessors. She presented tax receipts for the years 1929, 1931, 1932, 1933 and 1934 to prove her alleged possession. The Court of First Instance found that the claim of the defendants of possession is not true because of the existence of improvements in the form of canals built on the land by students of the school. So it rendered the judgment above mentioned on March 17, 1953.

The case was appealed to the Court of Appeals in April, 1953 and the Record on Appeal bears a certificate of the clerk dated September 11, 1953.

On March 7, 1956 defendants-appellants filed a motion in the Court of Appeals alleging that the case has become moot and academic for the reason that the land in question was declared alienable and disposable by Proclamation No. 209 of the President of the Philippines on October 21, 1955; that defendant filed an application for free patent on June 7, 1954 and on December 1, 1955 a free patent was issued in favor of the defendant-appellant.

In view of the above facts, the Court of Appeals dismissed the appeal in the following language:

"It is, therefore, our considered opinion that this appeal should be dismissed because further discussion of the case on the merits has become academic, if not unnecessary. It is well-settled that dismissals of appeals on grounds other than the ones mentioned in Section 1, Rule 52 of the Rules of Court may be ordered for causes arising after the decision from which the appeal is taken or 'whenever they are the necessary effect of the conditions under which the case is placed by special circumstances, as for instance, where the questions submitted on appeal have become moot ones.' (Moran's Comments on the Rules of Court, Vol. I, 1957 ed., citing the case of Puyat and Sons Co., Inc. vs. Farol, 81 Phil., 346)."

Then it adds the following dispositive part:

"Wherefore, the Original Certificate of Title No. P-124 issued by the Register of Deeds for the City of Baguio on December 1, 1955 in favor of appellant Ezra P. Nabus should be, as it is hereby, declared in full force and effect and the instant case is dismissed, without costs."

The Solicitor General makes the following assignments of error before this Court:

I

THE COURT OF APPEALS ERRED IN CONSIDERING AND APPRECIATING EVIDENCES WHICH WERE NOT PRESENTED AT THE HEARING BEFORE THE COURT OF FIRST INSTANCE OF BAGUIO CITY.

II

THE COURT OF APPEALS ERRED IN RELYING AND BASING ITS DECISION ON PROCLAMATION NO. 209 OF THE PRESIDENT DATED OCTOBER 21, 1955; ON THE FREE PATENT APPLICATION No. V-10741 OF EZRA P. NABUS DULY APPROVED BY THE BUREAU OF LANDS ON JUNE 7, 1954; AND ON FREE PATENT No. V-23743 DATED DECEMBER 1, 1955 ISSUED BY THE BUREAU OF LANDS IN THE NAME OF EZRA P. NABUS.

There is no question that since the President of the Philippines has excluded about ten hectares of land from the Trinidad School Reservation, within which the five hectares subject of the action of forcible entry and detainer is included, an act of the plaintiff has supervened that renders continuance of the action unnecessary. The dismissal of the appeal is no pronouncement that petitioner has no longer any cause of action or that respondents now have a meritorious defense. The dismissal is a pronouncement that it is unnecessary for the court to decide the case or any issue therein. Mr. Justice Moreland's comments in *Velasco vs. Rosenberg*, 29 Phil. 212, 214, explain the nature of the dismissal; thus:

"Nor will an appellate court consider a fictitious case submitted merely for the purpose of testing the right to do a particular thing. Therefore, if, pending an appeal, an event occurs which renders it impossible for the appellate court to grant any relief, the appeal will be dismissed no matter whether such condition arise from the act of the appellant or from the act of the appellee; and the result will be the same if the same condition arise from an act of the court a quo, as where, pending appeal, some order or judgment issued in the case renders the determination of the questions presented by the appeal unnecessary. Such a condition may arise also by act of the law or by mere lapse of time, as where, pending an appeal from an order of the court in a case involving an infringement of a patent, the acts or tenure of a public or election officer, or other matter, the patent expires the official term comes to an end, the election is held, or an order of the court is executed. Similarly where a litigation has ceased to be between parties having an adverse interest, the appeal will be dismissed; and where all substantial interest in the controversy has been parted with or extinguished, the court will not hear the appeal simply to determine the right to costs."

We find, however, that the dispositive part of the decision of the Court of Appeals is without justification or cause or reason. The said court could not consider the fact of the proclamation and the fact of the supposed issuance of the patent for the purpose of declaring the title of defendant-appellant as in full force and effect, for that would be a settlement of a fact which was never in issue in the trial court and over which issue the petitioner has not had its day in court. The Court of Appeals should have limited itself to dismissing the appeal without the additional pronouncements contained in the dispositive part of the decision.

Wherefore, the dispositive part of the decision of the Court of Appeals is hereby set aside and the appeal is hereby dismissed. Without costs. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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