

CITY OF CEBU, PLAINTIFF AND APPELLANT, VS. EMILIO PADILLA, ET AL., DEFENDANTS AND APPELLEES.*G.R.No. L-20393. January 30, 1965*

Ponente: BENGZON, J.P., J.

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It has been the long-standing policy of the Government to put lands of the public domain to effective use for the good of the public. In pursuance of this policy, laws, rules and regulations have been adopted, laying down the steps by which such purpose may be effectively carried out.

On February 28, 1939 Juan Padilla filed with the Bureau of Lands Homestead Application No. V-6992 over a parcel of land, now Lot No. 3986 of the Cebu Cadastre, situated in Mambaling, City of Cebu, with an area of 53,773 square meters. Since February 4, 1936, he has occupied 2.76 hectares of the northern part of said lot as grantee of Nipa-Bacauan Plantation Permits No. 63 issued by the Bureau of Forestry. The Bureau of Lands approved the application for homestead on March 17, 1949. Padilla made the required improvements on the land and presented the final proof of occupation and cultivation pursuant to Sec. 14 of Commonwealth Act 141. On December 16, 1952, the Director of Lands ordered the issuance of a homestead patent in his favor.

South of Juan Padilla's Nipa-Bacauan Plantation, but within Lot No. 3986, Tranquilino Quijano operated a salt-work of 2.09 hectares under Saltwork Lease Agreement No. 115 with the Bureau of Forestry. Quijano's lease dated to as far back as June 21, 1932. On June 2, 1941 he assigned the lease to the City of Cebu which intended to erect a market and a slaughterhouse on the land. On June 23, 1941 the Bureau of Forestry issued Gratuitous Permit No. 1 to the City of Cebu and the latter periodically renewed it, the last renewal being on June 30, 1953, for the period ending June 30, 1955.

In November 1941 the City of Cebu contracted with Engineer Luis Regner for the construction of a slaughterhouse at the site covered by Gratuitous Permit No. 1. In preparation for the construction, lumber and other construction materials were hauled to the site. However, World War II broke out before construction could commence.

After liberation or specifically on October 25, 1951 the municipal board of Cebu City passed Resolution No. 681 abandoning the slaughterhouse project on the ground that it "would be impractical and expensive" and "would endanger the health of the persons living in the community". In 1954, however, said municipal board passed Resolutions Nos. 806 and 1119 requesting the President of the Philippines "to proclaim Lot No. 3986, Swo 22654, situated in the Barrio of Mambaling, City of Cebu, containing an area of 53,772 square meters as a permanent reservation site of the City of Cebu for an abattoir, city pound, stockyard and veterinary center".

Juan Padilla died on December 10, 19-16. His heirs, Emilio and Alberto Padilla, inherited his homestead. They filed on August 5, 1954 a petition with the Bureau of Forestry to cancel Gratuitous Permit No. 1 on the ground that the same covered land within their homestead. On May 12, 1955 the Director of Forestry denied the petition, stating that the aforesaid homestead fell within forest zone, and ordered the Padillas to vacate the premises and

remove their improvements therefrom. The Padillas appealed to the Secretary of Agriculture and Natural Resources, but the Director of Forestry was sustained.

Whereupon, on October 11, 1955, the Padillas filed in the Court of First Instance of Cebu a petition for certiorari (Case No. R-4233) seeking review of the Director of Forestry's decision of May 12, 1955 and the order of the Secretary of Agriculture and Natural Resources affirming it, dated August 1, 1955. However, this case was dismissed because on October 21, 1955 the Secretary set aside his order dated August 1, 1955. On September 9, 1957 the City of Cebu filed with the Secretary a motion for reconsideration of the latter's new order.

The Padillas also filed a petition for mandamus (Civil Case No. R-4041) on May 31, 1955, in the Court of First Instance of Cebu against the Director of Lands, compelling him to issue the homestead patent over Lot No. 3986 in their favor as ordered on December 16, 1952. The City of Cebu tried, but failed, to intervene. The petition for mandamus was granted. The Director of Lands appealed but later withdrew his appeal. Nonetheless, the patent has not been issued.

On March 3, 1956 the City of Cebu filed with the Secretary of Agriculture and Natural Resources a motion for the reconsideration of the order of December 16, 1952 directing the issuance of a homestead patent in favor of Juan Padilla. Furthermore, the City of Cebu filed a complaint in the Court of First Instance of Cebu to declare null and void the decision in Civil Case No. R-4011 (Mandamus) ; the order of the Director of Lands for the issuance of homestead patent in favor of Padilla; the patent itself, if issued; and the orders and decisions of the Secretary of Agriculture and Natural Resources and the Director of Lands in favor of the Padillas. It also asked for possession of Lot No. 3986, reimbursement of expenses, damages and costs. The Padillas were included as parties defendants. Subsequently, the City of Cebu amended its complaint by further alleging that its motions for reconsideration had not yet been acted upon by the Secretary of Agriculture and Natural Resources. The Padillas moved to dismiss the complaint for lack of cause of action, stating that it was prematurely filed. The court granted the motion and dismissed the complaint.

The City of Cebu appealed and the case was elevated to the Court of Appeals. On September 18, 1961, however, the City of Cebu moved in said court for the confirmation of an agreement it had entered into with the Padillas. The terms of the agreement are embodied in Resolution No. 823 of the municipal board, reading as follows:

"Resolved, That the Municipal Board, Cebu City, confirming the letter of the Chairman, Cebu City Planning Board, dated April 14, 1961, addressed to Mr. Alberto Padilla, would interpose no objection to the granting of title to a portion or portions of that tract of land known, as Lot No. 3986 located at Spolarium-Kinalumsan River, Cebu City, provided that the other portion or areas thereof marked and set aside as site (1) for the proposed City Abattoir, (2) for the proposed extension of Salvador Street, and (3) for the proposed channelization of Kinalumsan River be first excluded from the said title that may be so granted, in view of the fact that said lot is included in the Neighborhood Development Plan, Scheme-C, as per Resolution No. 20, dated November 4, 1960, of the Cebu City Planning Board; and provided further that a separate title or title should first be issued to the City of Cebu covering each of the areas desired and set aside as site for the proposed City Abattoir, extension of Salvador Street, and channelization of Kinalumsan River above mentioned;

"Resolved Further, That a copy of this Resolution be furnished the Director of Lands, Manila, with the pertinent plan duly approved by the proper authorities in Manila showing the site for the proposed City Abattoir, extension of Salvador Street, and the channelization of Kinalumsan River aforesaid; and another copy thereof be furnished Mr. Alberto Padilla, Taboc-canal, Pardo, Cebu City."

and in a public document signed by the Padilla brothers, quoted hereunder;

"KNOW ALL MEN BY THESE PRESENTS:

"We, Emilio Padilla and Alberto Padilla, both Filipinos, of age, married and residents of Mambaling, Cebu City, do hereby known to the Municipal Board of Cebu City that we agree and consent to the proposals and terms embodied in Resolution No. 823 of the Municipal Board and request that this manifestation of our approval in conformity to the said terms and conditions of the proposal in Resolution No. 823 be noted, subject to the rules, laws, regulations and just determinations by the Director of Lands in cases of this nature, Cebu City, July 26, 1961"

On this motion for confirmation of agreement, the Solicitor General, acting in behalf of the Director of Lands and the Secretary of Agriculture and Natural Resources, manifested that he would interpose no objection to the agreement provided that the City of Cebu be issued no title to the excluded sites, on the ground that they are public land and the City of Cebu had not filed an application to acquire title thereto.

Cebu City thereupon stated that should the objection of the Solicitor General be considered as tenable, it could have no alternative but to insist that the case be decided on the merits. The Padillas, on the other hand, prayed for judgment in accordance with the motion for confirmation leaving out the portion objected to by the Solicitor General. The Court of Appeals desisted from acting on the aforesaid motion; instead, it forwarded the case to this Court as involving a question of law.

The City of Cebu interposes no objection to the granting of patent over Lot No. 3986, provided the three sites already mentioned be excluded from the patent and a separate title thereto be first issued in its favor. Such proposal was accepted by the Padillas "subject to the rules, laws, regulations and just determinations of the Director of Lands". Subsequently, both parties asked for judgment based on their agreement.

Under pertinent laws, rules and regulations, the City of Cebu cannot be given a title over the three sites aforementioned as it has not previously taken proper steps to acquire title thereto.

Obviously, the agreement of the City of Cebu and the Padillas should be construed in the light of existing laws, rules and regulations. We specifically refer to Section 83 of the Public Land Law which the City of Cebu can avail of by resolution of its municipal board requesting the Secretary of Agriculture and Natural Resources to recommend a proclamation by the President of the Philippines withdrawing from sale or settlement and reserving for its use, the three sites aforementioned. Such prerequisites under the law should be followed before the City of Cebu may be granted exclusive use of the sites in question; that is precisely what the Padillas, in conforming to the terms of the agreement, must have had in mind when they specifically stated, "subject to the rules, laws, regulations and just determinations by the Director of Lands in cases of this nature."

We observe that in 1954, the City of Cebu, per Resolutions Nos. 806 and 1119 of the municipal board, requested the President of the Philippines to reserve the lot in question for its exclusive use. The records do not show, however, any action taken thereon by the President. It is not hard to see why Lot No. 3986 was not reserved for the City of Cebu as requested by said resolutions: Lot 3986 was being claimed by the Padillas. The confirmation of the agreement between the City of Cebu and the Padillas will pave the way for the reservation by the Chief Executive of the three sites within Lot 3986 to be segregated from the Padillas' homestead.

WHEREFORE, the order of dismissal is set aside and the "Motion for Confirmation of Agreement" is hereby granted. Judgment is rendered approving the agreement of the parties, in consonance with which the Director of Lands and the Secretary of Agriculture and Natural Resources are ordered to exclude the sites for the proposed city abattoir, extension of Salvador Street and channelization of the Kinalumsan River from the homestead patent that may be issued to Emilio and Alberto Padilla for Lot No. 3986. The acquisition and/or exclusive use by the City of Cebu of the portions so excluded is subject to the compliance of the provisions of law. No costs.

SO ORDERED.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal and Zaldivar, .J.J., concur.

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