

CENON MATEO, PETITIONER-APPELLANT, VS. HON. FLORENCIO MORENO, IN HIS CAPACITY AS SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS, DEFENDANT-APPELLEE.*G.R. No. L-21024. July 28, 1969*

Ponente: MAKALINTAL, J.

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This case, elevated to the Court of Appeals by the petitioner for review of the decision of the Court of First Instance of Manila dismissing his petition for injunction, was subsequently certified to us under Section 31 of Republic Act No. 296.

Sometime in 1959 a number of residents of Guiguinto, Bulacan, sent a letter-complaint to the Highway District Engineer of that province asking that the Sapang Cabay, a public navigable stream, which had been blocked by means of dikes and dams and converted into fishponds, be ordered reopened and restored to its original condition. The letter was referred to the Secretary of Public Works and Communications, who caused an investigation to be conducted pursuant to Republic Act No. 2056. Acting on the report which the investigator submitted to him, the Secretary rendered his decision on August 10, 1959, finding that the Sapang Cabay was a public navigable stream and ordering Cenon Mateo, the herein petitioner-appellant, who had in the meantime acquired the property inside which the said creek is situated, to remove the dikes and dams therein constructed within thirty days from notice; otherwise they would be removed at his expense. Mateo moved to reconsider but was turned down, whereupon he filed the basic petition to restrain the respondent Secretary from enforcing his decision. The petition, as already stated, was dismissed by the Court a quo. The certification of the appeal to us was upon motion of both parties in view of the constitutional question involved.

Five errors are ascribed to the decision of dismissal, to wit: (1) in not holding that the respondent Secretary had no jurisdiction to conduct the investigation (of the original complaint) and order the removal of the dikes and dams constructed in the fishponds of the appellant; (2) in not holding that Republic Act No. 2056 is unconstitutional because it unduly delegates judicial power to the Secretary and unlawfully deprives the appellant and others similarly situated of their property without due process of law; (3) granting that Republic Act No. 2056 is constitutional, in not holding that it is inapplicable to the instant case; (4) in finding that the Sapang Cabay is a public navigable waterway belonging to the public domain; (5) in disregarding and failing to give legal effect to the Torrens Certificate of title of the appellant covering the property in question; and (6) in not issuing the writ of injunction prayed for.

The first two errors assigned are interrelated. They pose the argument that when the question at issue is whether or not a certain body of water is private property or constitutes a navigable stream or river of the public domain, the same is essentially judicial and therefore beyond the jurisdiction of the Secretary of Public Works and Communications to inquire into and decide; and that insofar as Republic Act No. 2056 purports to confer that power upon him it does so in violation of the Constitution.

The constitutionality of the aforesaid statute has been upheld by this Court in *Lovina vs. Moreno*, G. R. No. L-17821, November 29, 1963, shortly before the present appeal was submitted for decision. That case held, furthermore, that the absence of any mention of a navigable stream within a property covered by a certificate of title does not: preclude a subsequent investigation and determination of its existence nor make it private property of the title holder; that the findings of fact made by the Secretary of Public Works and Communications should be respected in the absence of illegality, error of law, fraud or imposition, as long as such findings are supported by substantial evidence; and that the ownership of a navigable stream or of the bed thereof is not subject to acquisitive prescription.

In the memorandum filed by the petitioner-appellant after *Lovina vs. Moreno* was decided, he submits that all but one of the issues he raised have been settled by that decision, and that the only issue which remains is the applicability of Republic Act No. 2056 in the instant case. He concedes the authority of the Secretary to decide, after hearing, whether or not a river or creek is navigable and therefore belongs to the public domain; whether or not the dikes and dams complained against encroach upon or obstruct such navigable river or creek, or communal fishing grounds; and whether or not the dikes and dams constitute public nuisances or prohibited constructions. The plea, however, is that in the light of the facts established at the investigation ordered by the respondent Secretary his conclusion that Sapang Cabay is a public navigable creek constitutes a grave abuse of discretion.

We see nothing in the argument which would justify a departure in the present case from the "substantial-evidence" rule as a limitation upon the scope of judicial review in administrative cases. Substantial evidence, it has been held, "is more than a scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [1]

Under this rule the courts are not supposed to reassess the evidence, determine its preponderance on either side, and substitute its own findings for those of the administrative agency. All that the court does is to inquire from the record if the findings are based on substantial evidence. If so, the findings are deemed conclusive.

In the present case the evidence in support of the respondent Secretary's decision is more than merely substantial. The testimony of several witnesses is correctly summarized in the brief submitted by the Solicitor General, as follows:

"Ocular inspection of the entire length of the creek up to Guiguinto, shows that portions of the creek are closed by dikes (pp. 85, 92, 93 Exh. 1, Def.), that traces of the path of the Cabay Creek within petitioner-appellants fishpond are still visible by the nature of the mud; that a manmade canal detours the creek from its original path (Ibid, 89); that the widest portion of the creek is from 70 to 75 meters wide (Ibid, 91); that Juan Bernardo, 79 years old in 1959, and resident of Guiguinto from birth, testified (that) as a result of the closing of said creek for fishpond purposes, it deprived the public the use of the same for fishing, gathering fruits and fuel, and that surrounding areas are over flooded during heavy rain as water from creek could not be drained to the river (Ibid, 95-96, 98); that in 1917, he complained to the Chief of Police, Demetrio Bernardo, against the construction of dikes across said Cabay Creek (Ibid, 98); that he used to go fishing on said creek before its closure (Ibid, 98); that they usually rode on boats in entering the creek (Ibid, 98-99); that Jose Mojica, 70 years old in 1959, and a resident of Guiguinto, testified that Petra Gatmaitan was the second claimant to said creek, the first being Venancio Gatmaitan; that the same was sold to Modesto Pascual, then to Encarnacion Jacobo and lastly to present petitioner-appellant (Ibid. 107); that petitioner-appellant used a bulldozer to elevate the dikes crossing the creek which encloses the fishpond (Ibid, 108); that they used to fish on said creek before its closure gather nipa palms and fuel, and catch shrimps (Ibid, 109); that they used bancas along the creek before its closure, particularly when carrying rice seedlings to distant ricefields for planting purposes (Ibid, 111); that during the flood season the creek is waist-deep and even more, and surrounding ricelands are over-flooded (Ibid, 111); that Isidra de la Cruz, 65 years old in 1959, and a resident of Guiguinto, testified that she drafted a resolution complaining against the issuance of title covering said creek (Ibid 117-118); that Agripino de la

Cruz testified that the creek is public property across which a tall dike was constructed (Ibid, 118-120); that the surrounding ricelands are flooded during heavy rains because the man-made canal is not sufficient to contain the volume of water coming from the creek (Ibid, 121); that he knew that Guiguinto folks made use of fish-traps for catching fish therefrom (mid, 122); that in his children days, he used to see bancas going thru the creek; that although before its closure overflowing did not usually occur even after continuous heavy rains, things have changed now and overflowing occurs frequently (Ibid, 123-124); that Julian Manicad, 70 years old in 1959, declared that before its closure, people fished there, gathered fuel and nipa palms, but it is different now, and the surrounding areas are easily flooded whenever there is heavy rain (Ibid, 143); that the people of Guiguinto once complained to the authorities about said closure (ibid, 144); that before its closure, he and his brother-in-law used to go fishing there, riding on a banca (Ibid, 159-160); that Pedro Dionisio, 64 years in 1959, declared that before its closure, they used to fish, gather firewood and nipa palms on said creek; that its closure has caused the flooding of surrounding areas, thereby resulting in poor rice harvests (Ibid, 152-154); that ocular inspection further showed that there is a man-made canal about 5 feet deep and between 4 to 8 feet wide which diverts the water from the main path of Cabay Creek as said canal is within the fishpond; that the canal ends at Guiguinto River (Ibid, 185-186); that portions of Cabay Creek is within respondent-appellant's fishpond and the water therein is deep enough for bancas to sail over it (Ibid, 190-191)."

The documentary evidence shows that as long ago as 1941 there were already complaints against the closure of the Sapang Cabay by the petitioner-appellant's predeces-sor-in-interest, Modesto Pascual; that the municipal council of Guiguinto passed a resolution on November 22 of the same year, requesting the Secretary of Public Works and Communi-cations to order the removal of the obstruction; that the administrative proceedings for that purpose were interrupted by the war, but reopened in 1948, and again in 1952, pursuant to similar resolutions of the same municipal council; and that in 1954 the Secretary of Public Works and Communications rendered a decision ordering Encarnacion Jacobo, who was then the owner from whom the petitioner-appellant subsequently bought the property, to remove the dikes she had constructed. It is true that Encarnacion Jacobo was able to get her free patent application approved in 1953 and to secure the corresponding certificate of title, but said title did not change the public character of the Sapang Cabay, the same being covered by one of exceptions mentioned in Section 39 of Act No. 496.[2]

WHEREFORE, the decision appealed from is affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur.

[1] Chief Justice Hughes, in Consolidated Edison Co. vs. N.L.R.B., 305 U.S. 197; 83 Ed. 126 (1938); Ang Tibay vs. CIR, 69 Phil. 635.

[2] Mercado vs. Macabebe, 59 Phil. 592.

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