

BENGUET EXPLORATION, INC., PETITIONER, VS. DEPARTMENT OF AGRICULTURE & NATURAL RESOURCES AND SOFIA V. REYES, RESPONDENTS.*G.R. No. L-29534. February 28, 1977*

Ponente: FERNANDO, J.

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A more extensive appraisal of the controlling doctrines on the status of a department head as an alter ego of the President, with particular reference to the broad competence enjoyed by the Secretary of Agriculture and Natural Resources in the disposition of the public lands and the wealth it contains, and a more careful reading of the specific provisions of the Mining Act,[1] not to mention the explicit recital in the order challenged that the purpose thereof is to accord a party the "formal hearing" thereby complying with the procedural due process requisite, ought to have cautioned against the filing of this certiorari petition against the Department of Agriculture and Natural Resources. Petitioner is a domestic mining corporation engaged in the exploration and development of certain lode mineral claims. The records show that private respondent Sofia V. Reyes filed with the Bureau of Mines an adverse claim against petitioner's Lode Lease Application covering three mining claims in Benguet, Mountain Province.[2] That was countered by a motion to dismiss, alleging as one of three legal objections the failure of such adverse claim to comply with the mandatory requirements of Section 73 of the Mining Act.[3] The private respondent then submitted an opposition with the Bureau of Mines thereafter dismissing the adverse claim.[4] The matter was taken up on appeal to the Department of Agriculture and Natural Resources, private respondent maintaining the sufficiency of its adverse claim under the law, a point disputed by petitioner, as could have been expected.[5] At first, the action taken by respondent Department was the dismissal of such appeal, but on a second motion for reconsideration, an order was issued with its dispositive portion reading thus: "Order of the Director of Mines dated September 15, 1966, and the Decision and Order of this Office dated July 21, 1967 and December 11, 1967, respectively, should be, as hereby they are, set aside; and to abbreviate proceedings, Atty. [Romulo A. Redula] of this Office is hereby directed to conduct a formal hearing of this case." [6] Hence this certiorari petition.

As intimated at the outset, this petition lacks merit. It must be dismissed.

1. Petitioner lost sight of the fundamental doctrine set forth in *Villena v. Secretary of Interior*,[7] decided in 1939, where Justice Laurel categorically declared that acts of a department head, and the challenged order in this case came from the then Acting Secretary of Agriculture and Natural Resources, Isosceles Pascual, "performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumably the acts of the Chief Executive." [8] Not so long ago, in *Tecson v. Salas*,[9] it was affirmed that as far as the power of control over all executive departments, bureaus and offices are concerned, "the Villena doctrine applies with undiminished force." [10] Since then, two other decisions did reiterate such a principle.[11] Moreover, petitioner likewise did not take into account the doctrine announced by the leading case of *Ortua v. Singson Encarnacion*. [12] As stated by Justice Malcolm: "Accordingly, to paraphrase the authorities and decisions coming principally from the United States Supreme Court, we deduce the rule on the

subject to be, that a decision rendered by the Director of Lands and approved by the Secretary of Agriculture and Commerce, upon a question of fact is conclusive and not subject to be reviewed by the courts, in the absence of a showing that such decision was rendered in consequence of fraud, imposition, or mistake, other than error of judgment in estimating the value or effect of evidence, regardless of whether or not it is consistent with the preponderance of the evidence, so long as there is some evidence upon which the finding in question could be made." [13] Here such a stage has not been reached. Precisely, the assailed order spoke of no "hearing on the merits, [therefore] it is but right and proper in the interest of justice that a formal hearing on the merits be conducted." [14] There is, therefore, an element of prematurity. That alone would have sufficed for the dismissal of this petition.

2. What appears to be the motivation behind this move of petitioner is to preclude the Secretary of Agriculture and Natural Resources from conducting his own inquiry. He would thus be denied the power accorded a bureau director. In *Pillero Jr. v. Director of Lands* [15] this Court, in an opinion by Justice Barredo expressly referring to the Regalian doctrine, pointed out that even a Torrens title is not a bar to the power of the Director of Lands to investigate an allegation of fraud that could have led to the issuance of a free patent. As stated by him: "It is to the public interest that one who succeeds in fraudulently acquiring a title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an ever existing authority, thru its duly authorized officers, to inquire into the circumstances surrounding the issuance of any such title, to the end that the Republic, thru the Solicitor General or any other officer who may be authorized by law, may file the corresponding action for the reversion of the land involved to the public domain, subject thereafter to disposal to other qualified persons in accordance with law. In other words, the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of Lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title in order that the appropriate action for reversion may be filed by the Government." [16] If petitioner would prevail, such power of inquiry vested in a subordinate would be denied a department head. That is to disregard a well-settled concept in public law. What is more, that is to be insensible to another facet the *jura regalia* concept by virtue of which the Republic of the Philippines possessed of the attributes of *impeurium* and *dominium*, acting through the Secretary of Agriculture and Natural Resources, is given the utmost latitude in ascertaining which party shall enjoy the privilege of exploiting the wealth that is found in its natural resources. [17] If petitioner were to prevail, there would be an undue diminution of the broad competence conferred on the Secretary of Agriculture and Natural Resources, as recognized in a host of cases notable for their number and unanimity. [18]

3. Petitioner would seek to weaken the force of the above authoritative doctrines as applied to it by the allegation that there is a failure to abide by the statutory requirements in the Mining Act, as amended by Republic Act No. 4388. Reference is made to Sections 61 and 73 as amended by Republic Act No. 4388. [19] The proviso in the former section which is relevant to the present controversy reads thus: "Provided, that the decision or order of the Director of Mines may be appealed to the Secretary of Agriculture and Natural Resources within thirty days from receipt of such decision or order. In case any one of the parties should disagree from the decision or order of the Secretary of Agriculture and Natural Resources, the matter may be taken to the Court of Appeals or the Supreme Court, as the case may be, within thirty days from the receipt of such decision or order, otherwise the said decision or order shall be final and binding upon the parties concerned. Findings of facts in the decision or order of the Director of Mines when affirmed by the Secretary of Agriculture and Natural Resources shall be final and conclusive, and the aggrieved party or parties desiring to appeal from such decision or order shall file in the Supreme Court a petition for review wherein only questions of law may be raised." What cannot be sufficiently stressed is that only upon the affirmance of the Secretary of Agriculture and Natural Resources does the findings of fact become conclusive, leaving only questions of law for this Court to decide. In the order complained of, the Acting Secretary of Agriculture and Natural Resources commendably sought to have a rational basis for the acceptance or rejection of the conclusion reached by the Director of Mines. What was objected to was that it could no longer be done as the matter had reached the stage of finality, such order coming only after a second motion for reconsideration.

Petitioner would thus ignore the basic principle that unless the administrative procedure followed conforms with the requirement of procedural due process the actuation could be stigmatized as void, a hearing being deemed of the essence of such proceeding. As a matter of fact, its absence would result in the loss of jurisdiction. As was stated by Chief Justice Concepcion in *Vda. de Cuaycong v. Vda. de Sengbengco*,^[20] acts whether of Congress or of the Executive, "can deny due process only under pain of nullity, * * *."^[21] As a matter of law, to accept petitioner's claim that in thus issuing such an order the Acting Secretary of Agriculture and Natural Resources failed to abide by the requirements of the law would be precisely to cast doubt on the validity of such sections of the Mining Act when all that was required by him was compliance with the requisite of a formal hearing. That would be to incur the vice of the construction given such sections being repugnant to the due process clause. Certainly, between two lines of interpretation, one of which would give it life and the other which would be fatal to its validity, the former should prevail. Thus petitioner's, first two errors assigned, which could be summed up in the proposition that Secretary Pascual should not have passed upon the second motion for reconsideration are clearly without merit.

4. It is thus apparent that the third error assigned to the effect that the Department of Agriculture and Natural Resources acted in excess of its jurisdiction when it arrogated the function of hearing the adverse claims is even more bereft of support in law. The very provision of the Mining Act upon, as previously set forth, speaks of the findings of facts of the Director of Mines "when affirmed by the Secretary of Agriculture and Natural Resources being final and conclusive," in which case the aggrieved party may file a petition for review with this Court where only questions of law may be raised.^[22] To sustain the contention of petitioner would be to run counter to what was held in the leading case of *Aug Tibay v. Court of Industrial Relations*.^[23] Justice Laurel specifically spoke of "cardinal primary rights" embraced in "the fundamental and essential requirements of due process in trials and investigations of an administrative character."^[24] Here precisely, vital and essential facts remained at issue. It was the considered judgment of the Acting Secretary of Agriculture and Natural Resources that a hearing should be held to ascertain the truth of the matter. As set forth in the challenged order: "It is but right and proper in the interest of justice that a formal hearing on the merits of this case be conducted."^[25] In a subsequent paragraph, such point of view was reiterated: "The reason for this ruling is that the proceedings before this Office is administrative in character, and, therefore, the parties to the case must be given all the opportunity to be heard."^[26] Hence, the dispositive portion directing a certain Romulo A. Redula, presumably of the staff of the Department of Agriculture and Natural Resources, "to conduct a formal hearing of this case and to submit his report relative thereto within thirty (30) days from the termination thereof."^[27]

Clearly, to repeat, the allegation in the last assignment of error that there was an arrogation of the power on the part of respondent department is devoid of any legal justification. Moreover, had petitioner taken into consideration the aforesaid landmark opinion of Justice Laurel in *Ang Tibay v. Court of Industrial Relations* on the indispensability of complying with the due process requirement in an administrative proceeding, it would have noted that one of the doctrines relied upon by this Court in that case is an opinion of Chief Justice Hughes in *Morgan v. United States*.^[28] It ought to be affirmed that in the two subsequent *Morgan* cases, the stress became even more emphatic on the indispensability of complying with the due process mandate, characterized as "the rudimentary requirements of fair play."^[29] The relevance of the *Morgan* decisions should be evident, dealing as they do with the exercise of powers granted the Secretary of Agriculture of the United States.

WHEREFORE, the petition is dismissed for lack of merit.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Commonwealth Act No. 137, as amended (1936).

[2] Petition, pars. 1 and 2.

[3] Ibid, par. 3.

[4] Ibid, pars. 4 and 5.

[5] Ibid, pars. 6 and 7.

[6] Ibid, pars. 8 and 9, Annex A.

[7] 67 Phil. 451.

[8] Ibid, 463.

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

[10] Ibid, 283. Nine cases were cited beginning from *Marc Donnelly and Associates v. Agregado* 95 Phil. 1452 (1954) to *Lacson--Magallanes Co., Inc. v. Paño*, L-27811, Nov. 17, 1967, 21 SCRA 895.

[11] *Philippine American Management Company, Inc. v. Philippine American Management Employees Association (PAMEA-FFW)*, L-35254, May 25, 1973, 51 SCRA 98 and *Roque v. Director of Lands*, L-25373, July 1, 1976, 72 SCRA 1.

[12] 59 Phil. 440 (1934).

[13] Ibid, 443-444. It was followed subsequently in the following cases: *Ortua v. Rodriguez*, 63 Phil. 809 (1936); *Koppel (Phil.), Inc. v. Yatco*, 77 Phil. 496 (1946); *Alejo v. Garchitorena*, 83 Phil. 924 (1949); *De Guzman v. De Guzman*, 104 Phil. 24 (1958); *Denopol v. Director of Lands*, 106 Phil. 666 (1959); *Ingaran v. Ramelo*, 107 Phil. 498 (1960); *Sanchez v. Vda. de Tamsi*, 112 Phil. 668 (1961); *Galvez v. Vda. de Kangleon*, 116 Phil. 464 (1962); *Dajunos v. Tandayag*, L-32651, Aug. 31, 1971, 40 SCRA 449; *San Miguel Corporation v. Secretary of Labor*, L-39195, May 16, 1975, 64 SCRA 56; *Mauleon v. Court of Appeals*, L-27762, Aug. 7, 1975, 66 SCRA 92.

[14] Petition, Annex A, 4.

[15] L-36507, June 14, 1974, 57 SCRA 386.

[16] Ibid, 392.

[17] Cf. *Lee Hong Hok v. David*, L-30389, December 27, 1972, 48 SCRA 372, citing Justice Holmes' opinion in *Gariño v. Insular Government*, 212 US 449 (1909) and 3 Pound on Jurisprudence, 108-109 (1959).

[18] Cf. *Alejandrino v. Aquino*, 70 Phil. 113 (1940); *Director of Lands v. Abordo*, 74 Phil. 44 (1942); *Espinosa v. Makalintal*, 79 Phil. 134 (1947); *Alejo v. Garchitorena*, 83 Phil. 924 (1949); *Aureus v. Secretary of Agriculture and Commerce*, 85 Phil. 1 (1949); *Azajar v. Ardales*, 97 Phil. 851 (1955); *Hernandez v. Clapis*, 98 Phil. 684 (1956); *Heirs of Lachica v. Ducusin*, 102 Phil. 551 (1957); *De Guzman v. De Guzman*, 104 Phil. 24 (1958); *Heirs of B.A. Crumb v. Rodriguez*, 105 Phil. 391 (1959); *Songahid v. Cinco*, 106 Phil. 946 (1960); *Ladrera v. Secretary of Agriculture and Natural Resources*, 107 Phil. 794 (1960); *Pajo v. Ago*, 108 Phil. 905 (1960); *Pascual v. Director of Lands*, L-15816, Feb. 29, 1964, 10 SCRA 354; *Vda. de Calibo v. Ballesteros*, L-17466, Sept. 18, 1965, 15 SCRA 37; *Dauan v. Secretary of Agriculture and Natural Resources*, L-19547, Jan. 31, 1967, 19 SCRA 223; *Bonilla v. Secretary of Agriculture and Natural Resources*, L-20083, April 27, 1967, 19 SCRA 836; *Rallon v. Ruiz, Jr.*, L-23315, May 26, 1969, 28 SCRA 331; *Ramirez v. Court of Appeals*, L-28591, Oct. 31, 1969, 30 SCRA 297; *Dajunos v. Tandayag*, L-32651, Aug. 31, 1971, 40 SCRA 449; *Ramos v. Secretary of Agriculture and Natural Resources*, L-29097, Jan. 28, 1974, 55 SCRA 330; *Lacuesta v. Herrera*, L-33646, Jan. 28, 1975, 62 SCRA 115; *Mauleon v. Court of Appeals*, L-27762, Aug. 7, 1975, 66 SCRA 92; *Roque v. Director of Lands*, L-25373, July 1, 1976, 72 SCRA 1.

[19] Republic Act No. 4388 took effect on June 19, 1965. The main provision of the former section reads: "Conflicts and disputes arising out of mining locations shall be submitted to the Director of Mines for decision." There is no change in the Amendatory Act. As to Section 73, as amended, which is controlling, the main provision reads: "At any time during the period of publication, any adverse claim may be filed under oath with the Director of Mines, and shall state in full details the nature, boundaries, and extent of the adverse claim, and shall be accompanied by all plans, documents, and agreements upon which such adverse claim is based." The proviso deals with adverse claims already decided by the administrative authority no longer being subject to further inquiry. The last sentence of such proviso reads: "Upon the filing of the adverse claim all proceedings except the publication of notice of application for patent or lease and the making and filing of the affidavit in connection there with, as herein prescribed shall be stayed until the controversy shall have been settled or decided in accordance with Section sixty-one of this Act or the adverse claim waived."

[20] 110 Phil. 113 (1960).

[21] Ibid, 118.

[22] Section 61 of Commonwealth Act No. 137 as amended by Republic Act No. 4388.

[23] 69 Phil. 635 (1940).

[24] Ibid, 641-642.

[25] Petition, Annex A, 4.

[26] Ibid.

[27] Ibid.

[28] 298 US 468 (1936).

[29] Morgan v. United States, 304 US 1, 15 (1938). The third Morgan decision is United States of America v. F.O. Morgan, 307 US 183 (1939).

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