

THE DIRECTOR OF LANDS, PETITIONER, VS. MELECIO ABANZADO, ET AL., CLAIMANTS, THE DIRECTOR OF FORESTRY, CLAIMANT AND APPELLANT, VS. PERPETUO SILVA, ET AL., CLAIMANTS-APPELLEES.*G.R. No. L-21814. July 15, 1975*

Ponente: FERNANDO, J.

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The significant issues that have to be resolved in this appeal by the Director of Forestry from an order of the lower court denying his amended petition to review a judgment in a land registration proceeding, no decree having been issued as yet, arose from its failure to accord him the opportunity to present his evidence to show that the land in controversy is part of a communal forest and is thus non-disposable. Reliance is primarily based on what is submitted to be the controlling doctrine announced in 1960 in *Adorable vs. Director of Forestry*.^[1] It is pointed out that such a ruling is traceable to a number of previous pronouncements that stretch quite a while back, and, what is more, indicative of fidelity to the basic policy of conserving the national patrimony as ordained by the Constitution.^[2] More specifically, what was sought by appellant public official in his amended petition for review was the reconsideration of a previous decision, reached without his being heard, adjudicating in favor of private respondents what was alleged to be a portion of the Bais Communal Forest, a non-disposable public land. There was an opposition to such petition by private respondents, who argued that no extrinsic fraud was alleged and that the Director of Forestry was barred by estoppel or laches. The appealed order was based on the absence of actual or extrinsic fraud, thus resulting in the denial of the petition for review. A motion for reconsideration having proved futile, the appeal was taken directly to this Court on a question of law raising the constitutional issues of absence of a hearing in accordance with due process as well as the deviation from the fundamental principle that forest resources as part of the national patrimony should be inalienable.^[3] The appeal possesses merit. We have to reverse.

In the brief for the appellant Director of Forestry, mention is made that in a previous cadastral case,^[4] "judgment was rendered adjudicating Lot No. 6034 to the spouses Perpetuo Silva and Juana Divinagracia, and ordering its registration in their names On December 29, 1961, the Director of Forestry, through the provincial fiscal, filed a Petition for Review of Judgment . . . , later amended on January 17, 1962, alleging, inter alia, that Lot No. 6034 awarded to the respondents-spouses Perpetuo Silva and Juana Divinagracia forms a major portion of Parcel No. 1 of the Bais Communal Forest situated at Pamplona, Negros Oriental and under the administration of the Director of Forestry; that said lot also forms a portion of Lot No. 5164, Cad. Case No. 8, L.R.C. Rec. 293, Tanjay Cadastre, declared public land in said proceedings on March 12, 1926, which decision has never been revoked or set aside by any competent court and is, with respect to said Lot No. 6034, res judicata in the present Cad. Case No. N-4; that sometime in 1959, the respondents-spouses, with the intention of defrauding the government, filed an answer in Cad. Case No. N-4 claiming Lot No. 6034 as their property through long and adverse possession; that on December 29, 1959, the Cadastral Court rendered judgment adjudicating said Lot No. 6034 to respondents-spouses, but no decree of registration has as yet been entered by the Land Registration Commission

pursuant to said judgment; that the petitioner Director of Forestry was not duly notified of the hearing over said Lot 6034, and for this reason was unable to oppose its registration in the name of respondents-spouses; and that Lot 6034 is non-disposable land, the same being a part of the Bais Communal Forest, no portion of which has been released as disposable by the Bureau of Forestry in favor of the Bureau of Lands or any other person or entity . . ."[5] Respondents filed their opposition, and as noted, they were sustained. The lower court disregarded the contention that at the very least, the Director of Forestry was entitled to be heard on his petition and was equally deaf to the plea that non-disposable timberland was involved.

To repeat, the order denying the petition for review should be reversed.

1. It is the contention of appellant Director, relying on due process, that instead of an outright denial of the petition for review, the lower court should have set the matter for hearing to enable him to prove his claim. *Adorable vs. Director of Forestry*,[6] a 1960 decision, speaks quite plainly to that effect. Regrettably, its message failed to register. It was simply ignored. In that case, this Court, with Justice J.B.L. Reyes as ponente, noted that the appellant, as here, was the Director of Forestry. The similarity does not end there. There was a claim filed by private parties in a cadastral court over a certain lot which, in the opinion of the appellant, was "permanent timberland." [7] He would seek reconsideration, therefore, on two grounds: first, that he was entitled to a personal notice of the hearing, and second, that he was entitled to be heard. The assertion as to the need for a personal notice to appellant presented no difficulty. It was disposed of easily. Then came this relevant portion of the opinion of Justice J.B.L. Reyes: "But while the lower court was not legally bound to send personal notice of the hearing to appellant, it does not mean, however, that it acted correctly and within legal bounds in summarily dismissing appellant's motion for reconsideration and new trial without any injury as to the truth of the facts alleged therein. Appellant based his motion on the claim that a portion of the land in question either is needed for river bank protection or forms part of permanent timberland. If this claim that any portion of the land in question still forms part of the public forests is true, then possession thereof, however long, cannot convert it into private property . . ., and such portion would fall within the exclusive jurisdiction of the Bureau of Forestry and beyond the power and jurisdiction of the cadastral court to register under the torrens system Hence, the lower court should have set appellant's motion for hearing to receive evidence on his allegations, in order that any portion or portions of the land in question that should form part of the forest or timber zone may be excluded and segregated from the decree of registration in favor of appellees." [8]

2. It should be quite apparent why no other decision except that of reversal of the appealed order is warranted. For in addition to the lack of respect for the requirements of procedural due process, there was on the part of the lower court a disregard of a basic state policy. The Constitution then in force, as is similarly the case with the present Charter, was quite explicit on the point of forest resources being inalienable. That is a paramount state objective. The fundamental law left no doubt. It is not to be thwarted. A lower court that is not duly mindful of such grave responsibility is recreant to its trust. Regrettably, that was what happened here.

3. There is more to be said about the excerpt from *Adorable*. Two cases were cited, *Nicolas vs. Jose*, [9] decided in 1906, and *Vaño vs. Government of the Philippines*, [10] promulgated in 1920. Outside of *Adorable vs. Director of Forestry*, [11] the *Nicolas* doctrine was cited with approval in *Municipality of Luzuriaga vs. Director of Lands*, [12] *Municipality of Hagonoy vs. Archbishop of Manila*, [13] *Municipality of Cavite vs. Rojas*, [14] *Director of Lands vs. Roman Catholic Bishop of Zamboanga*, [15] and *Unson vs. Lacson*. [16] The Vano opinion penned by Justice Malcolm insofar as relevant states: "To prove title, open, continuous, exclusive, and notorious occupation of the land by the applicant and his predecessors in interest since 1882, interrupted by the revolution, is relied upon. Included within the perimeter of the tract are approximately 685 hectares of forest land and four logging trails in the nature of highways. These portions should, without question, be eliminated from the claim. The Government

concedes, however, that approximately 1,060 hectares are under cultivation and that certain other portions have been used by the claimant for pasturage. But the doctrine of constructive possession announced in *Ramos vs. Director of Lands* . . . cannot be successfully advanced, for the claimant is not holding the land under color of title. To the tracts, of which applicant is in actual possession, he can secure title, on submission of proper plans." [17] The reference to *Ramos vs. Director of Lands*, [18] decided two years previously with the same jurist as ponente, is understandable. It is a leading case. It was Justice Malcolm who, by reference to the first Organic Act, the Philippine Bill of 1902, stressed the significance of timberlands for the national economy thus: "Indubitably, there should be conservation of the natural resources of the Philippines. The prodigality of the spendthrift who squanders his substance for the pleasure of the fleeting moment must be restrained for the less spectacular but surer policy which protects Nature's wealth for future generations. Such is the wise stand of our Government as represented by the Director of Forestry who, with the Forester for the Government of the United States, believes in 'the control of nature's powers by man for his own good.'" [19] Such an observation has not lost pertinence with the passage of time as shown by reference to *Ramos* in subsequent cases. [20]

4. To complete the picture, reference may be made to the learned and scholarly opinion of Justice Sanchez in *Director of Forestry vs. Munoz*, [21] a 1968 decision. After a review of Spanish legislation, he summarized the present state of the law thus: "If a Spanish title covering forest land is found to be invalid, that land is public forest land, is part of the public domain, and cannot be appropriated. Before private interests have intervened, the government may decide for itself what portions of the public domain shall be set aside and reserved as forest land. Possession of forest lands, however long, cannot ripen into private ownership." [22] Nor is this all. He reiterated the basic state objective on the matter in clear and penetrating language: "The view this Court takes of the cases at bar is but in adherence to public policy that should be followed with respect to forest lands. Many have written much, and many more have spoken, and quite often, about the pressing need for forest preservation, conservation, protection, development and reforestation. Not without justification. For, forests constitute a vital segment of any country's natural resources. It is of common knowledge by now that absence of the necessary green cover on our lands produces a number of adverse or ill effects of serious proportions. Without the trees, watersheds dry up; rivers and lakes which they supply are emptied of their contents. The fish disappear. Denuded areas become dust bowls. As waterfalls cease to function, so will hydroelectric plants. With the rains, the fertile topsoil is washed away; geological erosion results. With erosion come the dreaded floods that wreak havoc and destruction to property — crops, livestock, houses and highways — not to mention precious human lives. . . ." [23]

WHEREFORE, the order denying the petition for review of appellant Director of Forestry dated November 15, 1962 is reversed and set aside, and the case is remanded to the aforesaid Court of First Instance of Negros Oriental of the 12th Judicial District, to enable appellant Director of Forestry to present evidence on his allegation that the land in question forms part of the Bais Communal Forest, which is not disposable public land, after which a decision on the merits of the petition for review may be promulgated in accordance with law and the controlling decisions of this Honorable Tribunal. Costs against private respondents.

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

[1] 107 Phil. 401

[2] The Preamble of the 1935 Constitution in force at the time the petition for review was filed and denied speaks of "a government that shall . . . conserve and develop the patrimony of the nation . . ." The identical language is found in the present Constitution.

[3] Article XIII, Section I of the 1935 Constitution insofar as pertinent reads: "Natural resources, with the

exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploitation, development, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant." As now found in Article XIV, Section 8 of the present Constitution, it is worded thus: "All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, wildlife, and other natural resources of the Philippines belong to the State. With the exception of agricultural, industrial or commercial, residential and resettlement lands of the public domain, natural resources shall not be alienated, and no license, concession, or lease for the exploration, development, exploitation, or utilization of any of the natural resources shall be granted for a period exceeding twenty five years, renewable for not more than twenty-five years, except as to water rights lot irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases, beneficial use may be the measure and the limit of the grant."

[4] Cadastral Case No. N-4, L.R.C. Cad. Rec. No. N-266 of the Court of First Instance of Negros Oriental

[5] Brief for the Appellant, 1-2.

[6] 107 Phil. 401.

[7] Ibid, 402.

[8] Ibid, 403-404.

[9] 6 Phil. 589.

[10] 41 Phil. 161.

[11] 107 Phil. 401 (1960).

[12] 24 Phil. 193 (1913).

[13] 29 Phil. 320 (1915).

[14] 30 Phil. 602 (1915).

[15] 61 Phil. 644 (1935).

[16] 100 Phil. 695 (1957).

[17] 41 Phil. 161, 162.

[18] 39 Phil. 175.

[19] Ibid, 186.

[20] Cf. *Ankron vs. Government*, 40 Phil. 10 (1919); *Vano vs. Government*, 41 Phil. 161 (1920); *Escudero vs. Director of Lands*, 44 Phil. 83 (1922); *Government vs. Heirs of Abella*, 49 Phil. 374 (1926); *Roales vs. Director of Lands*, 51 Phil. 302 (1927); *Krivenko vs. Register of Deeds*, 79 Phil. 461 (1947); *Vital vs. Anore*, 90 Phil. 855 (1952); *Director of Forestry vs. Munoz*, L-24796, June 28, 1968, 23 SCRA 1183.

[21] L-24796, June 28, 1968, 23 SCRA 1183.

[22] Ibid, 1199. Justice Sanchez referred to following cases: *Kincaid vs. Kabututan*, 35 Phil. 383 (1916); *Ramos vs. Director of Lands*, 39 Phil. 175 (1918); *Jocson vs. Director of Forestry*, 39 Phil. 560 (1919); *Ankron vs.*

Government, 40 Phil. 10 (1919); Vano vs. Government, 41 Phil. 161 (1920); Li Seng Giap vs. Director of Lands, 55 Phil. 693 (1931); Fernandez Hermanos vs. Director of Lands, 57 Phil. 929 (1931); Vda. de Alfafara vs. Mapa, 95 Phil. 125 (1954); Adorable vs. Director of Forestry, 107 Phil. 401 (1960).

[23] Ibid, 1214.

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