

FRANCISCO DUQUE IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF HEALTH, PLAINTIFF-APPELLANT, VS. GAVINA CRUZ AND THE DIRECTOR OF LANDS, DEFENDANTS-APPELLEES.*G.R. No. L-25132. September 25, 1968*

Ponente: FERNANDO, J.

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In this complaint for injunction filed with the lower court, the City of Baguio, the original plaintiff, thereafter substituted by the then Secretary of Health Francisco Duque, would enjoin defendant Gavina Cruz "to discontinue and desist from further continuing her construction" in the disputed lot and to remove what was constructed thereon as well as to vacate the premises, with the other defendant, the Director of Lands, being ordered to cancel her provisional permit covered by her townsite application of October 11, 1961. The action is based on the claim that such a lot forms part of the site allotted the Baguio General Hospital. A preliminary injunction was issued as prayed for, but upon defendant Cruz putting up a bond of P1,000.00 it was lifted.

Defendant Cruz, in her answer, maintained that the lot, the subject matter of the complaint, does not form part of the Baguio General Hospital reservation, being disposable public land, to obtain which she had filed the proper sales application. She prayed for the dismissal of the complaint and on her counterclaim sought actual and moral damages as well as attorney's fees.

Plaintiff as well as defendants agreed to submit the case for decision on the following stipulation of facts: "That the Philippine Commission on Tuesday, October 20, 1908, by Res. No. 67, set aside Lot No. 84, Res. Sec. 'A' of Baguio Townsite for Sanatorium Reservation, * * *; That said Lot 84, Res. Sec. 'A', was surveyed in 1911 and 1912 with an area of 253,608 square meters, more or less, * * *; That the technical description of survey plan, * * * was plotted on blue print * *; that the land covered by said plan, * * *, was subdivided by the Bureau of Lands into Lots 84-A and 84-B in 1920 and which subdivision appears to have been approved by the Director of Lands, Jorge Vargas, in 1928; That defendant Gavina Cruz filed. T. S. A. No. V-7302 over a portion of 750 square meters of said Lot 84-A to the Bureau of Lands in accordance with Public Land Act (Commonwealth Act No. 141); That her application for a provisional permit to occupy the land applied for was approved by the Bureau of Lands and she paid a fee of P151.50 therefore as evidenced by Official Receipts Nos. C-1677683 and C-5148241, * * *; That a revocable permit to build her house thereon was issued after paying the necessary fee to the City Engineer of Baguio who approved her plan, * * *, and certified that the area applied for was not need by the City of Baguio; That the house of Gavina Cruz was on Lot 84-A * * *." [1]

On the above facts, the complaint was dismissed, the counter claim being disallowed likewise. Why the decision should be such was made clear by the lower court. "If Lot 84-A is a part of the disposable public domain, there would be no question whatever over the right of Gavina Cruz to apply for a portion thereof and to build her house thereon because the Bureau of Lands which is the sole government agency in charge of such the position had approved her Townsite Sales Application and issued her revocable permit to occupy the land applied for. Before

the approval of her said application, the Director of the Bureau of Lands or his representative must have examined the condition of the lot to determine whether it forms part of the public domain subject to disposition or a reservation, and the City Engineer must have certified, after investigation, that it was not needed for public purposes by the City of Baguio, because such are the standard procedures that must be followed before said application could be granted. The Director of Lands maintains, and there is no proof to the contrary, that Lot 84-A is not a part of the Official reservation of the Baguio General Hospital. These officials must be presumed to have acted within the ambit of their authority and have performed their duties in accord with the law."[2]

The dismissal of the case, in the opinion of the lower court was called for, as the evidence failed "to show that plaintiff or the Baguio General Hospital has acquired a right enforceable, in law over the portion of land occupied by the defendant Gavina Cruz upon due authorization of the other defendant Director of Lands who is presumed to have acted within the scope of this authority under the Public Land Law, * * *." [3] Hence the conclusion that there was no cause of action of plaintiff against defendants as a court should not "countenance the summary deprivation of citizens of rights which they have acquired in good faith under due process of law." [4]

The above observation of the lower court commends itself for approval. As far back as 1928, the disputed lot assumed the character of disposable public land. There was nothing to stand in the way then of defendant Cruz filing her application so that she could, according to law, acquire the same. In so acting, she did not violate any right of the City of Baguio. All that was required of her was to observe all the legal requirements so that her rights over the same would be fully established. Nor was she oblivious of any of the law's dictates. Plaintiff had no valid cause for complaint.

Nor can there be any doubt as to the power of the Director of Lands to act as he did on the premises. The law is clear. The Director of Lands has "direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture and Natural Resource." [5] He was possessed of such a power even under the former law. [6] By virtue thereof it has been the constant holding of this Court that the determination arrived at by the Director of Lands, as affirmed by the Secretary of Agriculture and Natural Resources, as thus provided, is conclusive on the courts. [7]

It may be said, however, that in this case, there is no showing that there was such an approval by the Secretary of Agriculture and Natural Resources. The absence thereof does not detract in any way from the finality of the decision, reached as far back as 1928 by the Director of Lands and not appealed.

So it was held by us in one decision, *Director of Lands v. Manuel*. [8] According to the petition in that case, "on October 6, 1949 Paulino Manuel filed a homestead application accompanied by an affidavit alleging that the land subject of his application was formerly covered by a previous application filed by him in 1931, the records of which were destroyed during the last war, and so he asked that the same be accepted and recorded to take the place of his former application; that this new homestead application was approved, and on April 22, 1950, Patent No. V-5117 was issued to Paulino Manuel for which a certificate of title was issued to him in accordance with Act 496; that upon subsequent investigation made by the Director of Lands, it was found that Manuel had already transferred whatever rights and interests he had in the land covered by his homestead application to Feliciano Valeroso as shown by an affidavit executed by the former on April 28, 1947, and on the strength of which Valeroso also filed a homestead application for the same land; that when Manuel reconstituted his destroyed homestead application he never revealed that he had already transferred to Valeroso whatever rights and interests he had in the land applied for, thus making the Director of Lands believe that he was entitled to acquire the land in question; and that in the light of the foregoing facts, the Director of Lands issued an order on May 31, 1954, declaring that Patent No. V-5117 had been improperly issued to Paulino Manuel and directing that proper action

be taken for the cancellation of said patent. Said order became final and executory for lack of appeal." Essentially, the above facts were admitted, there being only a denial that there was a transfer of the rights and interests of defendant Manuel.

On the above facts, it was our holding: "Considering that the question relative to the transfer of the rights and interests of respondent to Feliciano Valeroso in the land in question has already been passed upon by the Director of Lands in the sense that the pre-ponderance of evidence shows that the former had previously relinquish all his rights to the entire land now covered by the latter's application but that in spite of said relinquishment he employed fraudulent means to have the disputed portion patented in his name, and this decision having become final and executory for lack of appeal on the part of respondent, the same cannot now be looked into. * * *"

The principle on which the above decision is based suffices to show the lack of merit of the present complaint. For it to prosper, a 1928 decision of the Director of Lands would have to be reconsidered and set aside. The long period of time that had elapsed should have cautioned plaintiff from asserting a right which, as far back as 1928, was in effect denied. If, after almost four decades, a determination by the Director of Lands could still be inquired into, there would be no stability in property rights which, undoubtedly, is demanded by public interest.

Both on legal and equitable grounds, therefore, the appealed decision should be sustained. The City of Baguio all the while could have raised the issue after such a ruling was made by the Director of Lands in 1928 if in reality the site intended for the Baguio General Hospital became subject, as disposable public domain, to sales application by interested parties. All the while, however, it did nothing to protest against such an alleged invasion of its rights. It was not until 1961 that the complaint in this case was filed.

It was much too late. It had slept on its rights too long, even on the assumption that there was such a failure to respect the proper boundaries of the site which the Philippine Commission as far back as 1908 intended for a sanatorium reservation. Under the circumstances above disclosed, the complaint could not prosper, and it was rightfully dismissed.

WHEREFORE, the appealed decision is affirmed, without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Sanchez, Castro, Angeles, and Capistrano, JJ., concur.
Makalintal and Zaldivar, JJ., did not take part.

[1] Decision, Record on Appeal, pp. 77-79.

[2] Ibid, pp. 79-80.

[3] Ibid, p. 82.

[4] Ibid, p. 82.

[5] Section 4, Commonwealth Act No. 141.

[6] Act No, 2874, Section 4.

[7] *Alejo v. Garchitorena*, 83 Phil. 924 (1949); *De Guzman v. De Guzman*, 104 Phil, 24 (1958); *Denopol v. Director*, 106 Phil. 666 (1959); *Ganitano v. Sec. of Agriculture & Natural Resources*, L-21167, March 31, 1966; *Heirs of Julian Molina v. Vda. de Bacud*, L-20195, April 27, 1967; *Lacson-Magallanes Co. v. Paño*, L-27811, November 17, 1967; *De Los Santos v. Rodriguez*, L-23170, January 31, 1968.

[8] L-19799, March 31, 1964.

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