

ARISTOTELES REYNOSO AND/OR NAPOLEON B. REYNOSO, PETITIONERS, VS. COURT OF APPEALS AND PROTACIO ORAP, RESPONDENTS.

G.R. No. L-49344. February 23, 1989

Ponente: REGALADO, J.

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REGALADO, J.:

Before Us for review on certiorari is the decision of respondent Court of Appeals in CA-G.R. No. 46359-R, promulgated on January 12, 1978[1] which set aside as being null and void the decision of the court a quo[2] and dismissed the complaint in an accion publiciana with damages filed by herein petitioners.

The trial court briefly but adequately set out the facts established by the evidence of the parties therein:

"The land in dispute is a parcel of land situated at Magragondong, Panganiran, Ligao, Albay, containing an area of 56 hectares, more or less. The evidence for the plaintiffs tends to show that Feliciano Hatol started possessing the land prior to 1943; that on Oct. 20, 1943, Feliciano Hatol sold all his possessory rights and improvements thereon for P2,800.00 to Hilarion Reynoso, who, in turn, sold his rights thereto to Napoleon B. Reynoso, and the latter made Hilarion Reynoso as the administrator of the land; that Napoleon B. Reynoso then filed his sales application, No. V-31030, Lot No. 6786. Cadastral No. 239, with the Bureau of Lands; that Napoleon B. Reynoso paid the sum of P140.00 for publication deposit in 1960, and another sum of P50.00 in 1962; that Napoleon B. Reynoso in turn sold his possessory rights and improvements thereon to Aristoteles Reynoso in April, 1964; that during the period that the plaintiffs and their predecessors had been in possession of the land, they introduced improvements thereon, and had been receiving the owner's share of the produce from the croppers; that up to the present time, the sales application of Napoleon B. Reynoso, and now of Aristoteles Reynoso, has been pending in the Bureau of Lands, due to the protest filed by defendant Protacio Orap; that in 1962, the defendant, armed with a claim of transfer of rights by Eligio Nunez and/or Atty. Rizalino Reynoso, and with the application for posture lease filed on April 7, 1960, either by Eligio Nunez or Atty. Rizalino Reynoso, entered the land and has been occupying the same, to the detriment of the plaintiff; that, notwithstanding the fact that the land was at the time occupied by the tenants or croppers of the plaintiffs, the defendant drove them away and have deprived the plaintiffs of the owner's share of not less than 100 cavans of palay per agricultural year, valued at P12.50 per sack; and that despite the demands made by the plaintiffs to restore to them the possession of the land, the defendant had refused delivery thereof.

"Upon the other hand, the evidence for the defendant tends to show that Atty. Rizalino Reynoso, a brother of the plaintiffs, together with Eligio Nunez, sold the rights of Eligio Nunez over the land for pasture purposes of over 2,000 hectares of land, more or less, including the land in question; and that the defendant filed his pasture lease application, No. 24386, and believing in good faith that there was no other claimant he began possessing the land in 1962, thereby fencing with barbed wire and brought in his cattles (sic)."[3]

The main defense of private respondent is that, being mere applicants, petitioners have no possessory rights to speak of, much less to invoke, in this case; that the land in question is in an abandoned state; that before he purchased the rights of Eligio Nunez, private respondent and the Chief of the Bureau of Forestry conducted an

ocular inspection of the premises; and that they found only squatters in some portions therein, the rest of the area being cogonal.[4]

After trial, the court below rendered its decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of plaintiffs Aristoteles Reynoso and Napoleon B. Reynoso and against defendant Protacio Orap, as follows:

- (1) Declaring plaintiff Aristoteles Reynoso the lawful and legal possessor of the land in question;
- (2) Ordering defendant Protacio Orap to restore the possession of the land to plaintiff Aristoteles Reynoso;
- (3) Ordering defendant Protacio Orap to pay plaintiff Napoleon B. Reynoso the sum of P1,000.00 a year, corresponding to the produce of the land, or the total sum of P2,000.00 for 1962 and 1963 only;
- (4) Ordering defendant Protacio Orap to pay plaintiff Aristoteles Reynoso the sum of P1,000.00 a year, corresponding to the produce of the land, commencing in 1964 until possession thereof have (sic) been delivered to plaintiff Aristoteles Reynoso;
- (5) Ordering defendant Protacio Orap to pay plaintiff Aristoteles Reynoso the sum of P1,000.00 for the destruction of the improvements thereon;
- (6) Ordering defendant Protacio Orap to pay plaintiff Aristoteles Reynoso the sum of P1,500.00 for attorney's fees and other expenses of litigation;
- (7) Ordering defendant Protacio Orap to pay costs of this suit;
- (8) In the execution of the judgment herein, ordering the officer enforcing the writ of execution to levy upon so many heads of cattle of defendant Protacio Orap as will satisfy the total amount of money judgment and cost included in the writ of execution."

Upon motion of herein petitioner, and over the objection of private respondent, the trial court issued a writ of execution pending appeal in an order, dated April 12, 1969, on a bond of P2,000.00 filed by therein plaintiffs. A subsequent motion for reconsideration of the decision filed by private respondent was denied.[6]

Private respondent then went on appeal to respondent Court of Appeals where, raising in issue the alleged lack of jurisdiction of the trial court for the first time, he contended that (1) the land in controversy is a public land and/or part of the public domain, hence the Bureau of Lands has the exclusive jurisdiction over the case; (2) the parties are both applicants over the land in question which is still pending investigation in the Bureau of Lands, hence in taking cognizance of the case the trial court arrogated unto itself the power and authority to adjudicate and award lands of the public domain, which power and authority are vested by law in the Director of Lands; and (3) the trial court having no jurisdiction over the subject matter of the action, its decision is consequently null and void, hence the immediate execution of the decision was likewise null and void.[7]

Respondent court reversed the court a quo and dismissed herein petitioner's complaint, under the following ratiocination:

"Resolving the controversy, we believe that neither one of the parties is as yet entitled to possession, plaintiffs' sales application and defendant's application for lease of pasture land being both unacted upon by the executive offices concerned. And more importantly, there seems to be need to determine whether the land in question is forest or agricultural land, a matter beyond courts to adjudicate at this stage. It is, therefore, our considered opinion that the case was too prematurely brought to court. There is no question that courts are not without authority to take jurisdiction over 'possessory actions' arising from disputes involving public lands, but such disputes are qualified to those 'not involving directly or indirectly, alienation and disposition.' (Pilatque [sic])

versus Serilla [sic], 92 Phil. 5, 11-12). In other words, courts have the power and authority, nay, the duty to adjudicate and resolve controversies involving possession of public lands where one or both of the parties has (have) been authorized by the Bureau of Lands (or Bureau of Forestry, as the case may be) to enter into possession. But where, as in the case under consideration, neither one of the parties has been authorized to have possession, the dispute as to who has the right to possession, either by virtue of sales application or by application to lease pasture land is a question that must initially be decided by the executive bureau (bureaus) concerned. x x x"[8]

There is merit in the instant petition assailing the foregoing judgment of the respondent court.

1. Private respondent vigorously insists, and the respondent court upheld his submission, that the dismissal of the complaint for lack of jurisdiction is proper on the ground that since both parties, herein petitioners and private respondent, are mere applicants for the sale (to petitioners) or lease (to private respondent) of the subject property, and their applications remain pending with no award having been made by the Bureau of Lands, the dispute as to who has the right to possession of the disputed premises, by virtue of either the sales application or the application for lease of pasture land, falls squarely within the jurisdiction of the then Bureau of Lands and/or Forestry.

We disagree.

The main issue raised by petitioners is whether or not the authority given to the Bureau of Lands over the alienation and disposition of public lands precludes the courts from exercising jurisdiction over possessory actions over said public lands between applicants thereto. In other words, considering that the parties herein are mere applicants, no action having been taken as yet by the proper authorities on their applications, the inquiry is directed to whether they are vested with possessory rights over the public land subject of their applications and under their prior and actual occupation or that the approval of the sales or lease application is a condition sine qua non to the exercise of such right of possession.

The leading case of *Pitargue vs. Sorilla*,[9] the facts whereof are very similar to the case at bar, is in point. Said case also involved the situation wherein the Bureau of Lands had not made an award of, nor authorized entry into, the public land in question. An action for forcible entry was filed by a bona fide applicant who had occupied the land under the ostensible authority of a sales application he had filed with the Bureau of Lands on July 30, 1941, and which was given due course for investigation but as to which no approval had been granted since the investigation had not yet been completed. The principal question was whether the courts are without jurisdiction to take cognizance of possessory actions involving these public lands before final award is made by the Lands Department and before title is given to any conflicting claimants.

Some apparent misinterpretations hereinafter explained, constrain Us to quote to some extent the ruling and discussion of the court therein:

"x x x So before the enactment of the first Public Land Act (Act No. 926) the action of forcible entry was already available in the courts of the country. So the question to be resolved is, Did the Legislature intend, when it vested the power and authority to alienate and dispose of the public lands in the Lands Department, to exclude the courts from entertaining the possessory action of forcible entry between rival claimants or occupants of any land before award thereof to any of the parties? Did Congress intend that the lands applied for, or all public lands for that matter, be removed from the jurisdiction of the Judicial Branch of the Government, so that any troubles arising therefrom, or any breaches of the peace or disorders caused by rival claimants, could be inquired into only by the Lands Department to the exclusion of the courts? The answer to this question seems to us evident. The Lands Department does not have the means to police public lands; neither does it have the means to prevent disorders arising therefrom, or contain breaches of the peace among settlers; or to pass promptly upon conflicts of possession. Then its power is clearly limited to disposition and alienation, and while it may decide conflicts of possession in order to make proper award, the settlement of

conflicts of possession which is recognized in the courts herein has another ultimate purpose, i.e., the protection of actual possessors and occupants with a view to the prevention of breaches of the peace. The power to dispose and alienate could not have been intended to include the power to prevent or settle disorders or breaches of the peace among rival settlers or claimants prior to the final award. As to this, therefore, the corresponding branches of the Government must continue to exercise power and jurisdiction within the limits of their respective functions. The vesting of the Lands Department with authority to administer, dispose, and alienate public lands, therefore, must not be understood as depriving the other branches of the Government of the exercise of their respective functions or powers thereon, such as the authority to stop disorders and quell breaches of the peace by the police, and the authority on the part of the courts to take jurisdiction over possessory actions arising therefrom not involving, directly or indirectly, alienation and disposition.

"x x x To limit ourselves to the case at bar can it be pretended at all that its result would in any way interfere with the manner of the alienation or disposition of the land contested? On the contrary, it would facilitate adjudication, for the question of priority of possession having been decided in a final manner by the courts, said question need no longer waste the time of the land officers making the adjudication or award.

"Resuming the considerations we have set forth above, we hold that the grant of power and duty to the Lands Department to alienate and dispose of public lands does not divest the courts of their duty or power to take cognizance of actions instituted by settlers or occupants or applicants against others to protect their respective possessions and occupations, more especially the actions of trespass, forcible entry and unlawful detainer, and that the exercise of such jurisdiction is no interference with the alienation, disposition, and control of public lands. The question we have proposed to consider must be answered in the affirmative." [10]

It was, therefore, held further that -

"x x x even pending the investigation of, and resolution on, an application by a bona fide occupant, such as plaintiff-appellee herein, by the priority of his application and record of his entry, he acquires a right to the possession of the public land he applied for against any other public land, applicant, which right may be protected by the possessory action of forcible entry or by any other suitable remedy that our rules provide." [11]

upon the compelling consideration that the recognition of said right encourages actual settlement, discourages speculation and land-grabbing, and is an act of simple justice to the enterprise and diligence of the pioneer.

And, to give statutory strength to the foregoing rule laid down by this Court, Republic Act No. 947, [12] in Section 1 thereof, makes it unlawful for any person, corporation or association to enter or occupy, through force, intimidation, threat, strategy or stealth, any public agricultural land including such public lands as are granted to private individuals under the provisions of the Public Land Act duly covered by the corresponding applications required for the purpose notwithstanding the fact that title thereto still remains in the Government.

Thus it is that the jurisdictional question must be decided in the affirmative. Courts have jurisdiction over possessory actions involving public lands to determine the issue of physical possession in ejectment cases before inferior courts, as well as the better right of possession in accion publiciana cases before regional trial courts, both of which are basically possessory actions. This, because the actions for possession raised before the courts are proceedings discrete from the administrative disposition and alienation of public lands which should be threshed out in the Bureau of Lands. [13]

The proposition that the Public Land Act, Commonwealth Act No. 141, requires the prior approval of the application before possession of said land can be had is incorrect. It will be noted that this requirement, as stated in Section 13, Chapter IV, Title II thereof, reads:

"SEC. 13. Upon the filing of an application for a homestead, the Director of Lands, if he finds that the application should be approved, shall do so and authorize the applicant to take possession of the land upon the

payment of five pesos, Philippine currency, as entry fee. x x x"

and applies only to homestead applications. No such or similar requirement appears in the provisions governing sales and lease applications in Chapters V and VI, respectively, of the Act.

The conclusion of respondent court that "the courts have the power and authority, nay, the duty to adjudicate and resolve controversies involving possession of public lands where one or both of the parties has (have) been authorized by the Bureau of Lands x x x to enter into possession" is, therefore, unfounded. Respondent court purports to have relied on the statements of private respondent in his brief when it stated in its decision that -

"x x x This view finds confirmation in the very cases cited by appellee in his brief, e.g.:

'Once entry or possession over a public land is authorized by the Bureau of Public (sic) Lands pursuant to law, the applicant-possessor may look upon the executive and judicial departments for the protection of his rights from the administrative officials for the issuance of a homestead patent upon compliance with all the requisites of the law, and from the courts for the maintenance of his peaceful possession against the intruders which could be asserted through a possessory action (Pilarque [sic] vs. Sorilla, G.R. No. L-4302, Sept. 17, 1952) x x x.'" (Italics supplied).[14]

That citation appears to be a misapprehension since a perusal of the case of *Pitargue vs. Sorilla*, supra, reveals that there is no such ruling. Be that as it may, the supposed rule would nevertheless find no application to the case at bar since it ostensibly refers to a homestead application which, as earlier stated, is governed by a different set of procedural rules.

On the issue of priority of possession, there is no doubt that petitioners were already in possession of the subject property when private respondent gained entry thereto. It is made to appear that when private respondent, together with a Bureau of Forestry official, made an ocular inspection of the property, there were some squatters occupying certain portions of the land. It was, however, found that the alleged squatters were actually tenants of petitioners who had cultivated and introduced improvements on the land. Private respondent not having denied that he ejected the occupants of the land, this underscores the illegality of his occupation of the land and justifies a finding that he is a possessor in bad faith who was not unaware of an adverse claim or superior right of another. Consequently, petitioners are justly entitled to possession of the land; they have in their favor priority in occupancy and they are entitled to stay on the property until lawfully ejected by a person having a better right. [15]

The claim that petitioners are deemed to have abandoned their possessory rights to the land, under Article 555 of the Civil Code, cannot save the day for private respondent for the simple reason that petitioners immediately made known their objections to the unlawful acts of private respondent when the latter surreptitiously took possession of the land.

2. We find nothing reversible in the trial court's finding that the land is public agricultural land. Contrary to the opinion of respondent court, the classification thereof was not made by the trial court. The Administrative Assistant and Lands Investigator of the Bureau of Lands in Albay, as well as the Chief of the Bureau of Forestry also in Albay, both declared that, according to the records of their offices, the land has been classified as public agricultural land.[16] The lower court merely determined whether there was sufficient and convincing proof to show that the land was correctly classified by the proper authorities. There being an affirmative showing, it was the ministerial function of the court below to make a declaration that the land is agricultural.

Even assuming *arguendo* that no such evidence was presented, We have held that since it is a matter of public knowledge that a majority of the lands in the Philippines are agricultural lands, the courts have the right to presume, and private respondent has not rebutted the same, that in each case the lands are agricultural lands.[17]

One very apparent reason for this presumption is that it is for the good of the Philippines to have the larger public domain come under private ownership.[18]

It also bears mention that the property in dispute being a public agricultural land, the Bureau of Forestry (now, Bureau of Forest Development) cannot validly lease said parcel of land to herein private respondent, since the same falls under the control and administration of the Bureau of Lands.

WHEREFORE, the judgment appealed from is REVERSED and SET ASIDE, and the decision of the court a quo is hereby REINSTATED.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

[1] Penned by Justice Lourdes P. San Diego, with the concurrence of Justices Mama D. Busran and Corazon Juliana Agrava.

[2] Civil Case No. 2887, Court of First Instance of Albay, Branch I, presided over by Judge Perfecto Quicho.

[3] Record on Appeal, 17-19; Rollo, 25.

[4] Rollo, 14-15.

[5] Record on Appeal, 22-23; Rollo, 25.

[6] Ibid., 24-62; *ibid.*

[7] Rollo, 17.

[8] Ibid., 46-47.

[9] 92 Phil. 5 (1952).

[10] Ibid., 11-15.

[11] Ibid., 17.

[[12]] Effective June 20, 1953.

[13] Rallon vs. Ruiz, Jr., et al., 28 SCRA 332 (1969); Molina, et al. vs. Vda. de Bacud, et al., 19 SCRA 956 (1967); Bohayang vs. Maceren, etc., et al., 96 Phil. 390 (1954).

[14] Rollo, 47-48.

[15] Mediran vs. Villanueva, 37 Phil. 752 (1918); Molina, et al. vs. Vda. de Bacud, et al., *supra*.

[16] Exhibits A and J; Record on Appeal, 36; Rollo, 25.

[17] Ankron vs. Government of the Philippine Islands, 40 Phil. 10 (1919)

[18] Ramos vs. Director of Lands, 39 Phil. 175 (1918).

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