

SERAPIO DAUAN, PETITIONER-APPELLEE, VS. THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES AND THE DIRECTOR OF LANDS, RESPONDENTS-APPELLEES, SIMON ILARDE, ROMUALDO ILARDE, LORD ...

G.R. No. L-19547. January 31, 1967

Ponente: REGALA, J.

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REGALA, J.:

This case involves claims to 14.25 hectares of public land in Bambang, Sto. Domingo, Nueva Vizcaya. The land was originally applied for as homestead by Jose Aquino. Upon his death, Aquino was succeeded by his children who sold their rights to the land to the present appellee, Serapio Dauan.

Appellee himself filed an application (H.A. No. 206623) for a homestead of the land on February 14, 1935, but there is considerable dispute as to whether this application was approved by the Director of Lands. This point became a crucial issue between the parties as appellee subsequently sold his rights to various portions of the homestead to the appellants without securing the approval of the Secretary of Agriculture and Natural Resources and both parties took the view that, if appellee's application had been approved, then the transfer of rights to appellants must be approved by the Secretary; otherwise, no such approval was necessary. Thus, it appears that on December 16, 1943, appellee sold his rights to one-half of the land to appellant Simon Ilarde and that on July 24, 1951, he sold his rights to 4 hectares to appellant Lord Calangan and to 3 hectares to appellant Basilia Tomas. On March 28, 1955, Calangan and Tomas in turn sold their rights to some part of the land to Santos Baysa. These sales were all made without the previous approval of the Secretary of Agriculture and Natural Resources. The basis of contention of both parties is the following provision of the Public Land Act (Com. Act No. 141):

"SEC. 20. If at any time after the approval of the application and before the patent is issued, the applicant shall prove to the satisfaction of the Director of Lands that he has complied with all requirements of the law, but can not continue with his homestead, through no fault of his own, and there is a bona fide purchaser for the rights and improvements of the applicant on the land, and that the conveyance is not made for purposes of speculation, then the applicant, with the previous approval of the Secretary of Agriculture and Commerce, may transfer his rights to the land and improvements to any person legally qualified to apply for a homestead, and immediately after such transfer, the purchaser shall file a homestead application to the land so acquired and shall succeed the original homesteader in his rights and obligations beginning with the date of the approval of said application of the purchaser. Any person who has so transferred his rights may again apply for a new homestead. Every transfer made without the previous approval of the Secretary of Agriculture and Commerce shall be null and void and shall result in the cancellation of the entry and the refusal of the patent."^[1]

The dispute arose when appellee asked the Bureau of Lands to cancel the application for free patents which the appellants filed, covering the portions of the homestead sold to them. Appellee questioned the validity of the sales, claiming that the agreement was that of a loan and that at any rate the supposed sales were void for having been made without the prior approval of the Secretary of Agriculture and Natural Resources. On the other hand,

appellants maintained that their agreement with the appellee was that of a sale and, that as the homestead application of appellee himself had not been approved by the Director of Lands, no approval by the Secretary of the subsequent sales to them was necessary.

The Director of Lands held the transactions to be sales and sustained their validity on a finding that the homestead application of appellee had not been approved. His decision was subsequently affirmed on appeal by the Secretary of Agriculture and Natural Resources. Said the Secretary:

"The records x x x do not reveal that appellant's H.A. No. 206623 has ever been approved, inspite of the fact that it was filed as early as 1935. Over the allegation of the appellant (appellee herein) that his homestead application was approved but the records thereof were lost during the war is the verity that there are no reconstituted records to point to such approval of application nor is there any evidence to show that he has ever attempted to reconstitute the documents relative to the said approval.

"x x x x x

"Of course, in all these transfers none ever secured any prior approval of the Director of Lands, required in Section 20 of the Public Land Law, as amended by Republic Act No. 1242, but it should be noted that the said provision of law demands such approval only when transfer of rights is executed after the approval of a homestead application and, in the present case, there is no showing that the homestead application of the appellant, basis of the rights so transferred, had ever been approved at the time the transfers in question were executed.

Appellee did not appeal to the President. Instead, he filed this petition for certiorari in the Court of First Instance of Nueva Vizcaya, charging that both Director of Lands and Secretary of Agriculture and Natural Resources gravely abused their discretion in finding that his application had not been approved and, consequently, in ruling that prior approval of the transfers to them was not required.

The court granted appellee's petition, stating:

"The court has noticed that the past war has caused the disappearance of the prewar records of the homestead in question, but the papers pertinent hereto presented by the petitioner are, in the opinion of this Court, more than sufficient to bring us to a legitimate conclusion that the petitioner is a holder of a perfected homestead entitled to grant from the government, and having said petitioner remained in the possession for a period of more than 23 years, he is entitled to the protection of the law; the sales application of Romualdo Ilarde is null and void with respect to the portion which embraces or includes a portion of the homestead of the petitioner [the court having found no evidence at all that the portion was conveyed to Romualdo Ilarde by the appellee]; the free patent applications of the respondent Simon Ilarde, Basilia Tomas and Lord Calangan, having not been previously approved by the Secretary of Agriculture and Natural Resources are null and void, and as respondent Santos Baysa derives his alleged rights from Basilia Tomas and Lord Calangan, necessarily his application is also null and void."

Appellants asked for a reconsideration of this decision and, failing to secure one, brought this matter before us on appeal. They contend that the decision of the Director of Lands, which was affirmed by the Secretary of Agriculture and Natural Resources, became final for failure of the appellee to appeal to the President, with the result that this petition for certiorari should not have been entertained. Moreover, it is claimed that the trial court erred in ruling that appellee's application had been approved after it had once been found by the Director and the Secretary that no such approval had been given.

While the rule of exhaustion of administrative remedies would indeed require an appeal to be taken to the President before resort to the courts can be made,[2] it is equally true that the rule is not without exception. For instance the rule does not apply where the question in dispute is purely a legal one, and nothing of an

administrative nature is to be or can be done.[3]

Here the question was whether from the evidence submitted by the parties it could fairly be concluded that appellee's homestead application had been granted. Were the matter a simple process of ascertaining from the records whether the application had been granted, we would agree with appellants that it is a question of fact. But precisely because the records of the Bureau of Lands had been destroyed during the war that circumstantial evidence had to be introduced and it is a rule now settled that the conclusion drawn from the facts is a conclusion of law which the courts may review.[4]

And now to the main question: Is there warrant for the lower court's conclusion that appellee's application for a homestead had been approved? We believe there is:

First, it appears that sometime in 1936, a certain Teodocia Escobedo claimed in the Bureau of Lands (Claim No. 103) the land in question and its improvements and contested appellee's application for this purpose. In a decision dated January 28, 1941, dismissing the claim, the Director of Lands made a statement from which it may fairly be inferred that appellee had been allowed to enter the land and that his application had been granted, since under section 13 of the Public Land Act entry is allowed only after the approval of the application.

Second, the documents entitled "Transfer of Homestead Rights," whereby appellee transferred his rights to 4 hectares to appellant Calangan and 3 hectares to Basilia Tomas, recite in the first "WHEREAS" that "by virtue of Homestead Application No. 206623 approved on January 28, 1941 in accordance with Chapter IV of Com. Act No. 141, as amended, the Director of Lands allowed SERAPIO DAOAN to enter upon, occupy, cultivate, and reside on the tract of land described as follows x x x" Incidentally, these documents are in the form prescribed by the Bureau of Lands. The date given (January 28, 1941) as date of approval of the application is the date of the decision in Claim No. 103.

Third, if appellee's application had not been approved then he obviously had no right to transfer to the appellants, since as already pointed out, under section 13 of the statute, only after the approval of his application can an applicant enter and cultivate the land being applied for.

Fourth, appellee had all qualifications prescribed by the statute[5] and the presumption is that in the performance of his duty, the Director granted appellee's application. Indeed, section 13 of the statute commands the Director to approve the application "upon the filing (thereof) x x x if he finds that the application should be approved x x x and authorize the applicant to take possession of the land upon payment of five pesos, Philippine currency, as entry fee." The fact that appellee was in possession of the homestead at the time of the conveyances to the appellants, coupled by the lack of any thing to show that he was not in possession of the requisite qualifications, fairly indicates that his application had been approved by the Director of Lands.

These are circumstances strongly favoring the inference that appellee's application had been granted. In disregarding them and in insisting instead on the presentation of the records or reconstituted records to prove the grant of appellee's application, respondent land officials acted in excess of jurisdiction. This is not the first time circumstantial evidence is admitted to prove the grant of official sanction. In *Garcia v. Valera*, 88 Phil. 472 (1951), the question was whether the sale of a homestead had been previously approved by the Secretary of Agriculture and Natural Resources. The trial court held that as defendant failed to prove that the sale was approved, the same was void. In reversing the lower court's ruling, the Supreme Court held:

"It is significant that appellee's witness did not definitely declare that the sale in question did not carry the requisite approval when it was presented for registration; that the appellant at least testified, and this is uncontradicted, that he took to the office of the register of deeds of Nueva Vizcaya a letter obtained from the Bureau of Lands in connection with his sale; and that the corresponding transfer certificate of title (No. 3313)

was issued in the name of appellant by the register of deeds of Nueva Vizcaya in virtue of the sale made by Marcelo Uson. All these, coupled with the fact that the record does not show any constitutional or legal ground for not approving the sale in question and with the legal presumptions that official duty has been regularly performed and the law has been obeyed, fairly lead to the conclusion that the sale from Marcelo Uson to the appellant was made in conformity with Commonwealth Act No. 456 x x x"

We hold therefore that the conveyances to the appellants, which were admittedly made without the previous approval of the Secretary of Agriculture and Natural Resources, are void and, consequently, that appellants return the possession of the land in question to the appellee upon the return to them of the purchase price they had paid to the appellee.[6] We do not forget, of course, that a transfer of rights without the previous approval of the Secretary of Agriculture and Natural Resources "shall result in the cancellation of the entry and the refusal of the patent" of the appellee but the cancellation is not automatic and as long as the Government has not chosen to act, the rights of appellee must stand.[7]

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

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

[1] The power to approve transfer of rights under section 20 is now given to the Director of Lands. See Rep. Act No. 1242.

[2] E.g. Calo v. Fuertes, G.R. No. L-16537, June 29, 1962. See also Rellin v. Cabigas, G.R. L-15926, Oct. 31, 1960; Gamao v. Calamba, G.R. L-13349, Sept. 30, 1960; Miguel v. Reyes, 93 Phil. 542; Mari v. Secretary, 92 Phil. 410.

[3] Pascual v. Provincial Board, G.R. L-11959, Oct. 31, 1959. Nor does the rule apply to a party who claims the land in dispute as his private property. Kimpo v. Tabanar, G.R. L-16476, Oct. 31, 1961.

[4] Alfafara v. Mapa, 95 Phil. 125, 133 (1954)

[5] Section 12 of the Public Land Act provides:

"Any citizen of the Philippines over the age of eighteen years, or the head of a family, who does not own more than twenty-four hectares of land in the Philippines or has not had the benefit of any gratuitous allotment of more than twenty-four hectares of land since the occupation of the Philippines by the United States, may enter a homestead of not exceeding twenty-four hectares of agricultural land of the public domain."

[6] Tinio v. Frances, 98 Phil. 32 (1955); Oliveros v. Porcioncola, 69 Phil. 305 (1940)

[7] See Villacorta v. Ulanday, 73 Phil. 655 (1942); Eugenio v. Perdido, 97 Phil. 41 (1955)

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