

OSCAR N. JACOB, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF LANDS, ETC., RESPONDENT AND APPELLANT.*G. R. No. L-20798. June 21, 1966*

Ponente: REGALA, J.

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The Director of Lands, represented by the Solicitor General, appeals from the decision of the Court of First Instance of Camarines Norte prohibiting him from proceeding with the administrative investigation of Oscar N. Jacob. In a petition for "declaratory relief, injunction, prohibition with preliminary injunction" filed by Oscar N. Jacob with the lower court, the following are alleged: that Oscar Jacob is an employee of the Bureau of Lands Office In Daet, Camarines Norte; that he stands administratively charged for alleged Irregularities committed by him while a public land Inspector In the province of Camarlmes Norte In submitting false final Investigation reports which ultimately led to the Issuance of Free Patent No. V-8743 in favor of Angel Abies and Free Patent: No. V-8295 in favor of Cleto Asprec over two (2) parcels of land both situated In Alayao, Capalonga, Camarlmes Norte, titles thereto having been already issued; that the administrative complaint is signed by the Assistant Director of Lands, not under oath, and without any complainants named therein; that the investigation is being conducted by the Investigation Branch of the Anti-Graft and Corruption Board with respondent Leonito Umali as investigator and Esnesto A. Funsalang as Hearing Officer, which board was created by the Director of Lands by virtue of Special Order No. 156, dated April 22, 1960, for the specific purpose of disposing then pending administrative cases; that the aforesaid special order does not confer jurisdiction upon the Anti-Graft and Corruption Board to try the administrative charge as this was filed subsequent to the creation of said board; that the parcels of land involved have long ceased to be public lands; that the Investigation Branch aforesaid attempted to present as witness one Mr. Ignacio R«ctra In his capacity as public land surveyor, over the objection of petitioner; that the said Investigation Branch is acting without or in excess of its jurisdiction in proceeding with the investigation; and that there is no other plain speedy and adequate remedy in the ordinary course of law but this proceedings.

In answer, the Director of Lands interposed affirmative and special defenses, such as that the court has no jurisdiction over the subject matter; that it states no cause of action; that the ruling of the Bearing Officer in allowing Ignacio Sectra to testify is interlocutory and not appealable; and that the petitioner has not ex-tausted all administrative remedies before coming to court. After having allowed both parties to file their respective memoranda, the lower court rendered a decision granting the petition on the sole ground that pursuant to section 32, Article VII of Republic Act 2260, "there must be a complaint in writing signed and sworn to by the complainant before the petitioner may be investigated for his alleged misconduct in office and that no complaint which is not in writing and signed and sworn to by the complainant should be given due course."

Inasmuch as this appeal has been presented for decision without the appellee's brief having been submitted on time, the only point of discussion is the issue raised by the appellant, namely, whether or not it is necessary that an administrative complaint filed by the head of an office against a subrodiaate be subscribed under oath.

For a resolution of the question We need only to quote what We have stated in the case of *Maloga v. Gella. et al.*, G. R. No. L-20281, November 29, 1965, as follows:

"On the other hand, pursuant to Executive Order No. 370, series of 1941, administrative proceedings may be commenced against a government officer or employee by the head or chief of the bureau or office concerned *motu proprio*, in which case, whatever written charge is filed by him need not be sworn to, for the simple reason that said head or chief of the bureau or office is deemed to be acting in his official capacity and under his oath of office. It is only when the charge or complaint is filed by another person that the aforesaid executive order requires it to be under oath, for the obvious purpose of protecting government employees against malicious complaints filed only for the purpose of harassing them; and even in such case, when the complaint is not or cannot be sworn to by the complainant, the head or chief of the bureau or office may, in his discretion, take action thereon if the public interest or the special circumstances of the case warrant. If this is so, it would be illogical to require the head or chief of the bureau or office to swear to the complaint, when the same is filed by him. In this connection, we have held in *Pastoriza v. Division Superintendent of Schools*, G. R. No. L-14233, September 23, 1959, that the procedure under Executive Order No. 370 substantially conforms to the requirements of Section 32 of Republic Act 2260 to the effect that no complaint against a civil service official or employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant. And in *Bautista v. Negado*, G. R. No. L-14319, May 26, 1960, We further held that a complaint is not a pre-requisite to an administrative investigation." (underscoring supplied)

The same issue has again been raised and ruled upon recently in *Esperanza vs. Andres Castillo, etc., et al.*, G. R. No. L-21810, April 30, 1966, in which We held that "an administrative complaint filed by the head of a department or head of office pursuant to Executive Order No. 370, series 1941, need not be sworn to, despite the provision in section 32 of Republic Act No. 2260."

In the light of the foregoing authorities. We hold that the Director of Lands may now proceed in the investigation of the petitioner-appellee.

WHEREFORE, the decision appealed from is reversed, with costs against the petitioner-appellee.

Conception, C.J., Reyes, Barrera, Dizon, Makalintal, Bengzon, Zaldivar and Sanchez, JJ., concur.

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