

THE DIRECTOR OF LANDS, PETITIONER, VS. HON. NUMERIANO ESTENZO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF LEYTE, BRANCH V, ORMOC CITY, EUSEBIA ABAD ET AL., (CLAIMANTS) VICENTE C...

G.R. No. L-35618. August 30, 1988

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for review on certiorari of the decision of the then Court of First Instance of Leyte dated May 9, 1972 in Cad. Case No. 27, GLRO Rec. No. 1714 setting aside the decision of the Cadastral Court dated September 28 1940, declaring Lot No. 3785 public land and adjudicating said Lot No. 3785 in favor of private respondents.

Briefly, Lot No. 3785 of the Ormoc Cadastre, subject matter of the action was declared public land by the Cadastral Court in a decision dated September 28, 1940. Thirty-one years later, or on November 15, 1971, private respondents claiming that they are the successors-in-interests of Hilario Custodio, the original survey claimant of Lot No. 3785 and that they have been in adverse, peaceful and notorious possession of the said parcel of land since time immemorial filed with the lower court a petition to reopen the decision of the Cadastral Court under R.A. 931 as amended by R.A. 6236 entitled "AN ACT EXTENDING THE TIME LIMIT FOR THE FILING OF APPLICATIONS FOR FREE PATENTS AND FOR THE JUDICIAL CONFIRMATION OF IMPERFECT OR INCOMPLETE TITLES." Private respondents prayed for the reopening of the cadastral proceedings which declared Lot No. 3785 public land and for adjudication of the same in their favor.

After hearing, the lower court in its decision dated May 9, 1972, set aside the decision of the Cadastral Court dated September 28, 1940 and adjudicated Lot No. 3785 in favor of private respondents. Hence, this petition.

Petitioner in its sole assignment of error contends that the time for reopening of cadastral proceedings under R.A. No. 931 expired on December 31, 1968 and the same was not extended by R.A. No. 6236. Consequently, when the petition to reopen the cadastral proceedings was filed on November 15, 1971, the lower court no longer had any jurisdiction to entertain the same.

We find the petition meritorious.

In *Republic versus Reyes* /112 SCRA 635 (1982) /where the same assignment of error was raised, We held that the Court of First instance no longer has any jurisdiction or authority to reopen a cadastral proceeding since December 31, 1968, thus:

"In the lone error assigned, it was pointed out that the reopening of Cadastral proceedings terminated on December 31, 1968. At the time then private respondent sought to reopen the case, the lower court was without jurisdiction. So it was contended.

"The contention of the Solicitor General must be upheld. The Act cannot be clearer. What was extended then

was the time limit for the filing of applications for free patents and for the judicial confirmation imperfect or incomplete titles. Its Section 1 amends Section 45 to read as follows: 'The President upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time fix by proclamation the period within which applications for free patents may be filed in the district, chartered city, province, municipality, or region specified in such proclamation, and upon the expiration of the period as designated, unless the same be extended by the President, all the land comprised within such district, chartered city, province, municipality, or region subject thereto under the provisions of this chapter may be disposed of as agricultural public land without prejudice to the prior right of the occupant and cultivator to acquire such land under this Act by means other than free patent.' There is an applicable statute to situations of this character, dealing specifically with cadastral proceedings. *Lizarraga Hermanos vs. Yap Tico*, the ponente being Justice Moreland, is quite categorical: The first and fundamental duty of courts, in our judgment, is to apply the law. Construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them. Such a doctrine has been reiterated time and time again. There is thus ample justification for the appeal of the Republic of the Philippines."

More decisive is the earlier case of *Republic vs. Estenzo* /99 SCRA 651(1980)/which involves another decision of the same respondent judge reopening the same decision of the Cadastral Court as in this case. In the aforesaid case, a petition was filed by respondents therein on February 23, 1972 to reopen the September 28, 1940 decision of the Cadastral Court declaring Lot No. 4273, Ormoc Cadastre, public land, under R.A. No. 931 as amended by R.A. No. 6236, and the same was favorably acted upon by Judge Numeriano Estenzo. When the case was elevated to this Court, We stated that:

"We hold, therefore, that the extension provided for by Republic Act 6236 which is the sole basis for filing the respondents' petition to reopen the cadastral proceedings applies only to the filing of applications for free patent and for judicial confirmation of imperfect or incomplete titles and not to reopening of cadastral proceedings like the instant case, a proceeding entirely different from filing an application for a free patent or for judicial confirmation of imperfect or incomplete titles. (Underscoring supplied)

"Parenthetically, in setting aside the decision dated September 28, 1940, the respondent Judge has concluded that Rep. Act 6236 is applicable also to reopening of cadastral proceedings thereby, altering Rep. Act 6236. That cannot be done by the judiciary. That is a function that properly pertains to the legislative branch.

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"More importantly, the lower court has no longer jurisdiction to entertain the petition filed by respondents for reopening the cadastral proceedings because the latter, as we have noted, did not file the aforesaid petition within the period fixed by the applicable laws to wit: Rep. Act 931 and 2061. Consequently, the decision dated September 30, 1940 of the Cadastral Court declaring the land in question a public land has become final and conclusive. It has also acquired the status of *res judicata*. It must be remembered that generally, the fundamental principle of *res judicata* applies to all cases and proceedings, including land registration or cadastral proceedings. The doctrine of *res judicata* precludes parties from relitigating issues actually litigated and determined by a prior and final judgment."

WHEREFORE, the petition is granted. The decision of respondent Judge dated May 9, 1972 is hereby Set Aside and the decision of the Cadastral Court dated September 28, 1940 is Reiterated. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

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