

BENITO AYZON, RECURRENTE Y APELANTE, CONTRA REPUBLICA DE FILIPINAS, RECURRIDA Y APELADA.

G.R. No. L-6614. November 29, 1954

Ponente: PABLO, J.

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PABLO, J.:

Tratase de una apelacion por medio de certiorari contra una decision del Tribunal de Apelacion. Los hechos probados segun dicho Tribunal son:

"That the land in question is lot No. 4025 of the Expediente No. 6, Record 483, situated in Labuan, Zamboanga City, and described as follows—

"Bounded on the North, by lot No. 4027; on the east by lot No. 4026; on the south by lots Nos. 4024 and 4023; and on the west, by the shore; .

"That in said lot No. 4025, there exist improvements mainly consisting of fruit-bearing coconut trees which yield fruits estimated from 5 to 6 thousand every three months, and if converted into copra they would produce 300 to 320 kilos per thousand;

"That Lorenzo Ayson, several years before 1924, had acquired by purchase from some Subanos small parcels of land in Labuan, Zamboanga City, with the improvements existing thereon;

"That those parcels of land were surveyed by the surveyors of the Government, resulting into lot No. 4025, mentioned above;

"That lot No. 4025 was applied for by Lorenzo Ayson in the Bureau of Lands as homestead (Homestead Application No. 31690);

"That before the filing of the homestead application, Lorenzo Ayson was already in possession and occupation of this lot, planting it to coconuts and other fruit-bearing trees;

"That in August, 1927, Lorenzo Ayson transferred his rights and interests and participation over lot No. 4025 and its improvements in favor of his son, defendant Benito Ayson, who in turn continued possession and occupation thereof, benefiting out of the existing improvements;

"That Benito Ayson has been paying the real estate taxes for said lot No. 4025;

"That Benito Ayson, after having acquired the land from Lorenzo Ayson, solicited the same and its improvement in concept of a homestead from the Bureau of Lands, but this application has not been acted upon;

"That Benito Ayson on September 2, 1941, had leased a portion of lot No. 4025 and its improvements to defendant Pura Enriquez (Exhibit "B") who since then occupied and worked on said portion up to the time when the Director of Lands thru his representative entered into possession and ordered Pura Enriquez to vacate said portion designated by letter "P" on Exhibit "A";

"That on December 11, 1946, after the liberation of Zamboanga by the American Forces, defendant Benito Ayzon again filed his homestead application with respect to Lot No. 4025 (Exhibit "E"), but said application also was not acted upon;

"That in Civil Case No. 56, the Municipal Court of Zamboanga City rendered decision in favor of plaintiff Pura Enriquez (defendant in Civil Case No. 181) and against said decision the Director of Lands, as third party in Civil Case No. 56 appealed to the Court of First Instance;

"That the previous application of Lorenzo Ayzon had been cancelled by the Director of Lands by virtue of an order dated January 22, 1938, (Exhibits "F" and "I"), upon recommendation of the delegate inspector of public lands, Raymundo C. German (Exhibit "S").

"That the ground for cancellation was that after investigation it was proven that Lorenzo Ayzon was not directly interested in Lot No. 4025, but the same was occupied by one Lee Sah, a Chinese citizen, who was the one benefiting of the improvements with the consent of Lorenzo Ayzon.

"That in accordance with Paragraph 12 of the Homestead Application (Exhibit "E") filed by Benito Ayzon with the Bureau of Lands, improvements of said lot introduced by Lorenzo Ayzon and Benito Ayzon, one of the defendants in Civil Case No. 181, with all the rights of occupation were expressly renounced in favor of the Government by virtue of the cancellation by the Director of Lands in his order of March 15, 1937, and by his refusal to act upon the homestead application filed by Benito Ayzon (Exhibit "E") as impliedly inferred by the filing of the complaint in Civil Case No. 181."

El recurrente contiene que el Tribunal de Apelacion incurrio en error (1) al no declarar que el Director de Terrenos abuso de su discrecion al cancelar la solicitud de homestead sin notificar a la parte interesada: y (2) al declarar que el lote No. 4025 es del dominio publico bajo la administration y control del Director de Terrenos. La orden del Director de Terrenos de 22 de enero de 1938, ordenando a Lee Sah que vacase el lote, comienza asi:

"On March 15, 1937, this office issued ex-parte an order in connection with the Homestead Application No. 31690 (E-17403) of Lorenzo Ayzon, as follows:

'As, upon investigation, it has been found that Lorenzo Ayzon is not the one directly interested in the land covered by his Homestead Application No. 31690 (E-17463), and that said land is actually occupied by another person, said application is hereby cancelled."

Con la cancelacion de la solicitud, la Oficina de Terrenos puede privar al solicitante o a sus herederos de las mejoras hechas en el lote y, en efecto, por medio de la demanda presentada en la presente causa, se pide que se dicte sentencia condenando a los demandados a restituir la propiedad y la posesion del mismo.

El articulo 16 de la Ley del Commonwealth No. 141 dispone que "si en cualquiera epoca antes de la expiration del plazo que concede la ley para la presentation de la prueba definitiva se probare a satisfaccion del Director de Terrenos, previa notification al solicitante del homestead, que el terreno solicitado no esta sujeto, con arreglo a la ley, a ser registrado como homestead, o que el solicitante ha cambiado su residencia, o que voluntariamente ha abandonado el terreno por mas de seis meses consecutivos dentro de los anos requeridos de residencia y de ocupacion, o que en alguna otra forma ha faltado o dejado de cumplir las condiciones requeridas por esta Ley, el Director de Terrenos podra cancelar la solicitud."

Lorenzo Ayzon o sus herederos tienen derecho a ser notificados, segun este articulo, de toda actuacion sobre el lote solicitado. La investigation ex-parte hecha por el Inspector de Terrenos a espaldas del solicitante Lorenzo o herederos contraviene la disposicion expresa de dicha ley. La base sobre que descansa el requisito de previa notificacion es el principio bien establecido de que nadie debe ser privado de sus derechos sin el debido proceso

legal o sin ser antes oido. La investigation irregularmente seguida por el Inspector indujo a error al Director de Terrenos. No es este el primar caso en que por la indebida conducta de un inspector de terrenos se cuestiona la actuacion del Director de la Oficina de Terrenos.

En Garcia contra Carpio y otros, G. R. No. L-5105 (julio 27, 1953), se sostenia que el Director de Terrenos expidio titulo de homestead a favor de Carpio por maquinaciones de un inspector de terrenos, en vez de expedirse a favor del apelante Garcia a quien se habia adjudicado el lote, Farm lot No. 5356, PIs-62, por la National Land Settlement Administration en Mallig Plains, Isabela.

En Alejo y otros contra Court of Appeals, G. R. No. L-7394, (Res. enero 26, 1954), se contendia que se privd a los antiguos ocupantes de varias porciones de terreno situado en Bubo Pond, barrio San Fabian, Sto. Domingo, Nueva Ecija, cancelando la solicitud de homestead de aquellos mediante falsos informes del inspector de terrenoa para dar lugar a que otros nuevos solicitantes adquiriesen derecho sobre dichas porciones. Estos casos y otros varioa que hemos tenido oportunidad de conocer socavan la confianza del publico en la Oficina de Terrenos.

La Oficina de Terrenos debe proceder con mucha cautela en la cancelacion de solicitudes de homestead por recomendacion de los inspectores de terrenos que suelen oir solamente a los nuevos solicitantes, a espaldas de los antiguos. Las investigaciones ex-parte frustran los buenos propositos de la Ley. La cancelacion de la solicitud de homestead de Lorenzo Ayzon, en .contravencion del articulo 16 de la Ley del Commonwealth No. 141, es nula (Villegas vs. Juez Roldan,[*] 42 Off. Gaz., 2830), y el hecho de que no se haya apelado ante el Secretario de Agricultura y Recursos Naturales no convalida la orden. La solicitud No. 31690, por tanto, debe continuar sucursu ordinario, y cualquier accion que la Oficina de Terrenos deseare tomar sobre la misma debe hacerse con notificacion previa a los herederos de Lorenzo Ayzon. Declarada nula la orden de cancelacion. La Oficina de Terrenos no tiene derecho a recobrar la propiedad y posesion de! lote en litigio, sino la obligacion de resolver la solicitud de homestead de Lorenzo Ayzon, de acuerdo con las disposiciones de la ley citada.

Se declara nula y de ningun valor la orden de cancelacion de la solicitud de homestead; se sobresee la demanda sin pronunciamiento sobre costas.

Paras, Pres., Bengzon, Padilla, Montemayor, Jugo, Reyes, A., Bautista Angelo, Concepcion, y Reyes, J.B.L., JJ., estan conformes.

[1]76 Phil., 349.

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