

THE DIRECTOR OF LANDS, PETITIONER AND APPELLEE, VS. GAVINO SISICAN, PELAGIO DAULONG AND UBALDO BULARON, RESPONDENTS AND APPELLANTS.

G. R. Nos. L-20003-05. March 31, 1965

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal taken by respondent-appellants from the single decision rendered by the Court of First Instance of Misamis Occidental (in Civ. Case Nos. 2211, 2215, and 2216), granting the three separate petitions filed by the Director of Lands for the cancellation of the homestead patents and the corresponding certificates of title issued to Gavino Sisican, Pelagio Daulong, and Ubaldo Bularon, on the ground that they were issued erroneously. The three respondents-homesteaders appealed directly to this Court raising the sole issue that the cancellation of the said patents and certificates of title violates the constitutional provision of due process.

It appears that on May 10, 1947, September 25, 1945, and December 23, 1946, respectively, Gavino Sisican, Pelagio Daulong, and Ubaldo Bularon filed applications for homestead patents over certain parcels of land, with a combined area of 19 hectares, 57 ares, and 10 centares, all situated in Luzaran, Lopez Jaena, Misamis Occidental.

On February 28, 1917, and before patents could be issued to said applicants, an action was filed by Felisa Pipania, et, al. in the Court of First Instance of Misamis Occidental (Civ. Case No. 655), seeking to be declared the owners of a tract of land which later proved to include the land applied for by the appellants. The Director of Lands intervened in said case, claiming that the properly subject thereof was public land. On October 18, 1948, the court rendered judgment therein recognizing plaintiffs' right on ownership and possession of the land which was described as "from Sibuyan Creek as" starting point, down to the Insabulan River". This decision became final. However, due to the vagueness of the description of the land adjudicated in favor of the Pipanias, a surveyor-commissioner was appointed by the court (presumably to determine the exact boundary of the property) who, accordingly, submitted his report and sketch of the land on March 7, 1953. This report was duly approved by the court. Subsequently, or after the decision was rendered in this case (Civ. Case No. 655) and the delimitation of the land definitely determined, the Director of Lands, by mistake, issued orders for the issuance of homestead patents in favor of applicants Sisican, Daulong, and Bularon covering portions of land adjudicated in favor of the plaintiffs in Civil Case No. 655. Later, upon discovering this error, the Director of Lands instituted the present proceedings for cancellation of the patents and certificates of title issued to the applicants, on the ground that the lands covered therein were already private properties.

Respondents opposed these petitions of the Director of Lands claiming that they were not parties to Civil Case No. 655 and in adjudging the ownership of the lots covered by their applications to therein plaintiffs, therefore, they were not given their day in court. After a joint hearing of these cases, the court rendered judgment declaring the patents null and void, and directing the cancellation of the corresponding certificates of title already issued to respondents. As already stated, said patentees filed the instant appeal on the sole allegation that the annulment of

their patents is violative of the due process provision of the Constitution.

It is not disputed that as early as 1948, by decision of the court in Civil Case No. 655, the land involved in these cases was declared of private ownership, belonging to therein plaintiffs Felisa Pipania, et al. Clearly, the issuance of patents purporting to convey the same land as part of the disposable public domain, to herein appellants in 1953, was erroneous. Appellants, however, contend that they were not parties in Civil Case No. 655 and, hence, not bound by the decision rendered therein.

It must be remembered that as applicants of supposedly public land, whatever right appellants may have over the lots applied for, is only derived from the government. Since, the government, represented by the Director of Lands, was a party in Civil Case No. 655 and is bound by the decision therein, appellants cannot properly claim to be excluded from the enforcement and effect thereof. And, if at the time the free patents were issued in 1953, the land covered therein has already been decreed as private property of another and, therefore, not a part of the disposable land of the public domain, then applicants-patentees acquired no right or title to the land, and certainly Hip Director of Lands has reason to ask for the cancellation of the patents and titles thus erroneously issued.

Wherefore, the decision of the lower court appealed from is hereby affirmed. No costs. So ordered.

Bengzon, C. J., Bautista Angelo, Conception, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

Judgment affirmed.

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