

DIRECTOR OF LANDS, DIRECTOR OF FORESTRY AND REPUBLIC OF THE PHILIPPINES, PETITIONERS, VS. HON. JUAN P. AQUINO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF ABRA, SECOND JUDICIAL D...*G.R. No. L-31688. December 17, 1990*

Ponente: FERNAN, C.J.

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The center of controversy in the instant petition for review on certiorari is a limestone-rich 70-hectare land in Bucay, Abra 66 hectares of which are, according to petitioners, within the Central Cordillera Forest Reserve.

Private respondent Abra Industrial Corporation (AIC for brevity), a duly registered corporation established for the purpose of setting up a cement factory, claims on the other hand, to be the owner in fee simple of the whole 70-hectare area indicated in survey plans PSU-217518, PSU-217519 and PSU-217520 with a total assessed value of P6,724.48. Thus, on September 23, 1965, it filed in the then Court of First Instance of Abra an application for registration in its name of said parcels of land under the Land Registration Act or, in the alternative, under Sec. 48 of Commonwealth Act No. 141[1] as amended by Republic Act No. 1942 inasmuch as its predecessors-in-interest had allegedly been in possession thereof since July 26, 1894.[2]

The requisite publication and posting of notice having been complied with, the application was set for hearing. Except for the Director of Lands, nobody appeared to oppose the application. Hence, the court issued an order of default against the whole world except the Director of Lands.

After the applicant had rested its case, the provincial fiscal, appearing for the Director of Lands, submitted evidence supporting the opposition filed by the Solicitor General to the effect that AIC had no registerable title and that the highly mineralized parcels of land applied for were within the Central Cordillera Forest Reserve which had not yet been released as alienable and disposable land pursuant to the Public Land Law.

On July 22, 1966, the lower court[3] favorably acted on the application and ordered the registration of the parcels of land under the Land Registration Act. It ruled that although said land was within the forest zone, the opposition of the Director of Lands was not well-taken because the Bureau of Forestry, thru the District Forester of Abra, “offered no objection to exclude the same area from the forest reserve.”[4] It found that the parcels of land had been acquired by purchase and AIC's possession thereof, including that of its predecessors-in-interest, had been for forty-nine (49) years.

The Director of Lands, through the provincial fiscal, filed a motion for reconsideration of the decision asserting that except for a 4-hectare area, the land covered by PSU-217518, 217519 and 217520 fell within the Central Cordillera Forest Reserve, under Proclamation No. 217 dated February 16, 1929; that although it had been denuded, it was covered with massive, coralline, tufaceous limestone estimated to yield 200,000,000 metric tons about a fifth of which was suitable for the manufacture of high grade portland cement type and that the

limestone, being 250 meters thick, could yield 10,000 bags of cement a day for 1,000 years.[5] He contended that, while the land could be reclassified as mineral land under the jurisdiction of the Bureau of Mines, the process of exclusion from the Cordillera Forest Reserve had not yet been undertaken pursuant to Sec. 1826 of Republic Act No. 3092 and therefore it was still part of the forest zone which was inalienable under the 1935 Constitution.

AIC having filed its opposition to the motion for reconsideration, the lower court denied it on September 28, 1967 holding that the grounds raised therein were relevant and proper only if the Bureau of Forestry and the Bureau of Mines were parties to the case. It added that the motion for intervention filed by the Bureau of Lands and the Bureau of Mines was improper in land registration cases.[6]

The Director of Lands filed a petition for certiorari with the Court of Appeals but the same was dismissed for having been filed out of time[7] Hence, on December 22, 1967, the Commissioner of Land Registration issued Decrees Nos. 118198, 118199 and 118200 for the registration of the subject parcels of land in the name of AIC.

Within one year from the issuance of said decrees or on May 22, 1968, the Republic of the Philippines, through the Solicitor General, invoking Section 38 of Act No. 496, filed in the Court of First Instance of Abra a petition for review of the decrees of registration and the lower court's decision of July 22, 1966. The Solicitor General alleged that although the evidence presented by AIC showed that it had purchased from individual owners only a total area of 24 hectares, the application included 46 hectares of the Central Cordillera Forest Reserve and therefore AIC "employed actual fraud" which misled the court "to error in finding the applicant to have a registerable title over the parcels of land subject of the application." [8]

On November 27, 1969, the lower court[9] denied the petition on the ground that if, as alleged by the Solicitor General, then presiding Judge Macario M. Ofilada was mistaken in appreciating the evidence presented, judicial error was "not synonymous with actual fraud." [10]

Without asking for a reconsideration of said order, on February 25, 1970, the Solicitor General, representing the Director of Lands, the Director of Forestry and the Republic of the Philippines, filed the present petition for review on certiorari under Republic Act No. 5440.

The petition was forthwith given due course by the Court[11] but inasmuch as no action was taken on their prayer for the issuance of a temporary restraining order, the petitioners filed a motion reiterating said prayer. Finding the motion meritorious, the Court issued a temporary restraining order enjoining the private respondent and its agents and representatives "from further acts of possession and disposition to innocent purchasers for value of the parcels of land involved" in this case.[12]

AIC filed a motion to dismiss the instant petition on the grounds that it raises "unsubstantial" issues and that it was filed out of time. The motion was denied by the Court[13] but it bears pointing out that AIC's second ground for dismissal, which is premised on its perception that a motion for reconsideration of the order of November 27, 1969 is necessary before the filing of the instant petition, is incorrect.

A motion for new trial or reconsideration is not a prerequisite to an appeal, petition for review or a petition for review on certiorari.[14] The reglementary period for filing the petition for review on certiorari in the instant case was thirty (30) days from notice of the order or judgment subject of review[15] which period, parenthetically, is now fifteen (15) days pursuant to Section 39 of the Judiciary Act of 1980.[16] Petitioners having been granted a total of sixty (60) days[17] within which to file the petition, the same was timely filed.

Petitioners herein contend that the lower court erred in granting the application for registration of the parcels of land notwithstanding its finding that they are within the forest zone. The District Forester's failure to object to the exclusion of the area sought to be registered from the forest reserve was not enough justification for registration

because under Commonwealth Act No. 141, the power to exclude an area from the forest zone belongs to the President of the Philippines, upon the recommendation of the Secretary of Agriculture and Natural Resources, and not the District Forester or even the Director of Forestry.

Petitioners also contend that the lower court erred in denying the petition for review based on actual fraud because under Section 38 of Act No. 496, a decree of registration may be reviewed not only by reason of actual fraud but also for a fatal infirmity of the decision upon which the decree is based, provided no innocent purchaser for value will be prejudiced.

We find the petition to be meritorious. Once again, we reiterate the rule enunciated by this Court in *Director of Forestry vs. Munoz*[18] and consistently adhered to in a long line of cases[19] the more recent of which is *Republic vs. Court of Appeals*,[20] that forest lands or forest reserves are incapable of private appropriation and possession thereof, however long, cannot convert them into private properties. This ruling is premised on the regalian doctrine enshrined not only in the 1935 and 1973 Constitutions but also in the 1987 Constitution Article XIII of which provides that:

"Sec. 2. All lands of the public domain, waters, minerals, coal x x x, forests or timber, x x x and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated."

Pursuant to this constitutional provision, the land must first be released from its classification as forest land and reclassified as agricultural land in accordance with the certification issued by the Director of Forestry as provided for by Section 1827 of the Revised Administrative Code.[21] This is because the classification of public lands is an exclusive prerogative of the executive department of the government and not of the courts.[22] Moreover, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes.[23]

Being the interested party, an applicant for registration of a parcel of land bears the burden of overcoming the presumption that the land sought to be registered forms part of the public domain.[24] In this case, AIC asserts that the land in dispute is no longer part of the Cordillera Forest Reserve because the communal forest in Bucay, Abra which had been established in 1909 by virtue of Forestry Administrative Order No. 2-298, had been "cancelled and de-established" by Forestry Administrative Order No. 2-622 dated October 1, 1965 and issued by then Acting Secretary of Agriculture and Natural Resources Jose Y. Feliciano.[25] AIC therefore tries to impress upon the Court the fact that as there was no longer a forested area, the same area had become alienable more so because its actual occupants, who had been devoting it to agriculture, had relinquished their rights over it in favor of AIC "to give way for greater economic benefits for the people in the locality." [26] It should be emphasized, however, that the classification of the land as forest land is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like.[27] Hence, the fact that the contested parcels of land have long been denuded and actually contains rich limestone deposits does not in any way affect its present classification as forest land.

While it is true that under Section 1839 of the Revised Administrative Code, the Director of Forestry, with the approval of the Department Head, may change the location of a communal forest, such executive action does not amount to a declassification of a forest reserve into an alienable or disposable land. Under Commonwealth Act No. 141,[28] it is no less than the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands.[29] The President shall also declare from time to time what lands are open to disposition or concession.[30] AIC therefore, should prove first of all that the lands it claims for registration are alienable or disposable lands. As it is, AIC has not only failed to prove that it has a registerable title but more importantly, it failed to show that the lands are no

longer a part of the public domain.

The petitioners therefore validly insisted on the review of the decision ordering the issuance of the decree of registration in view of its patent infirmity. The lower court closed its eyes to a basic doctrine in land registration cases that the inclusion in a title of a part of the public domain nullifies the title.[31] Its decision to order the registration of an inalienable land in favor of AIC under the misconception that it is imperative for the Director of Forestry to object to its exclusion from the forest reserve even in the face of its finding that indeed a sizable portion of the Central Cordillera Forest Reserve is involved, cannot be allowed to stay unreversed. It betrays an inherent infirmity which must be corrected.

WHEREFORE, the order of November 27, 1969 denying the petition for review under Section 38 of Act No. 496 and the decision of July 22, 1966 insofar as it orders the registration of land within the Central Cordillera Forest Reserve are hereby REVERSE AND SET ASIDE. The temporary restraining order issued on April 7, 1970 is hereby made permanent. Costs against the private respondent.

SO ORDERED.

Gutierrez, Jr. and Bidin, JJ., concur.

Feliciano, J., on leave.

[1] Public Land Law.

[2] LRC Case No. N-67; LRC REG No. N-28993.

[3] Presided by Judge Macario M. Ofilada.

[4] Rollo, pp. 23-24.

[5] Rollo, p. 27.

[6] Rollo, p. 33.

[7] Rollo, pp. 97-99.

[8] Rollo, p. 40.

[9] Presided by Judge Juan P. Aquino.

[10] Rollo, p. 73.

[11] Rollo, p. 75.

[12] Rollo, p. 80.

[13] Rollo, p. 109.

[14] *Ortigas & Company, Limited Partnership vs. Ruiz*, L-33952, March 9, 1987, 148 SCRA 326, 340-341 citing *Habaluyas Enterprises, Inc. vs. Japson*, G.R. No. 70895, May 30, 1986, 142 SCRA 208.

[15] *Mania vs. Vda. de Segueria*, L-48257, August 24, 1984, 131 SCRA 330, 341.

[16] See: *Lacsamana vs. Second Special Cases Division of the Intermediate Appellate Court*, G.R. No. 73146-53, August 26, 1986, 143 SCRA 643, 650.

[17] Pursuant to the En Banc resolution of this Court on April 7, 1988, as a matter of policy, no extensions of time

to file petitions for review of the decisions of the Court of Appeals and other lower courts shall be granted for more than thirty (30) days except on compelling grounds towards the ends of substantial justice and avoiding a miscarriage of justice.

[18] L-24796, June 28, 1968, 23 SCRA 1183.

[19] Vano vs. Government of P.I., 41 Phil. 161; Adorable vs. Director of Forestry, 107 Phil. 401; Republic vs. De la Cruz, L-35644, September 30, 1975, 67 SCRA 221; Director of Lands vs. Reyes & Alinsunurin, L-27594, November 28, 1975, 68 SCRA 177; Republic vs. Court of Appeals, L-39473, April 30, 1979, 89 SCRA 648; Director of Lands vs. Court of Appeals, G.R. No. 50340, December 26, 1984, 133 SCRA 701.

[20] G.R. No. 56948, September 30, 1987, 154 SCRA 476.

[21] Director of Forestry vs. Villareal, L-32266, February 27, 1989, 170 SCRA 598, 608-609.

[22] Director of Lands vs. Court of Appeals, G.R. No. 58867, June 22, 1984, 129 SCRA 689, 692.

[23] Heirs of Amunategui vs. Director of Forestry, L-30035, November 29, 1983, 126 SCRA 69.

[24] Director of Lands vs. Funtalar, G.R. No. 68533, May 23, 1986, 142 SCRA 57.

[25] Rollo, p. 94.

[26] Rollo, p. 85.

[27] Heirs of Amunetegui vs. Director of Forestry, *supra*.

[28] Public Land Law.

[29] Section 6.

[30] Section 7.

[31] Vallarta vs. Intermediate Appellate Court, G.R. No. 74957, June 30, 1987, 151 SCRA 679, 693.

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