

GODELIVA S. DULAY, PETITIONERS, VS. THE HONORABLE MINISTER OF NATURAL RESOURCES, AS A FORMAL PARTY AND IN HIS OFFICIAL CAPACITY, THE DIRECTOR OF THE BUREAU OF FISHERIES & AQUATIC RESOURCES

G.R. No. L-48766. February 09, 1993

Ponente: NOCON, J.

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NOCON, J.:

Petitioner Godeliva S. Dulay comes to this Court and asks Us to confine public respondent Director of the Bureau of Fisheries and Aquatic Resources within his jurisdiction and to uphold the principle of *res judicata* in administrative proceedings by nullifying (1) his February 24, 1978 order giving due course to the letter-petition of private respondent Angeles D. Dico requesting for the reopening of Fishpond Conflict case of Mrs. Angeles Dico against Juan Quibete, Petronilo Retirado and petitioner Mrs. Godeliva S. Dulay and the "Cancellation of Fishpond Lease Agreement No. 2165 of Mrs. Godeliva S. Dulay" and (2) his telegrams dated August 14, 1978 stating that petitioner's motion for reconsideration of said February 24, 1978 interlocutory order "cannot be entertained" and advising petitioner of the continuation of the formal investigation of the private respondent's letter-petition scheduled for September 4 to 9, 1978.

This present conflict stems from two earlier cases decided by the Office of the President, both of which have attained finality. As condensed by the Office of the Solicitor General, these are as follows:

"1. Re: DANR Case No. 2898
entitled 'Angeles Dico
v. Juan Quibete'
Annex 'A')[1]

"The salient antecedent facts stated in the decision of the Office of the President dated November 14, 1969' are as follows:

"That by a barter agreement entered into between Juan Quibete and Jose Padios sometime in 1932, the former exchanged his parcel of land situated at sitio Palaypay, municipality of San Dionisio, province of Iloilo, for the latter's fishpond area of about 24 hectares located at sitio Talaba-an, municipality of Cadiz (now Cadiz City), province of Negros Occidental;

"That Juan Quibete, also in 1932, applied for a Fish and Game Special Permit over the area (F.P.L.A. No. 1709). The application was disapproved because the area covered thereby was not yet declared available' for fishpond purposes. The records of that application were lost during World War II so much so that Juan Quibete had to renew his application in 1945 (Fp. A. No. 716). His application was approved on February 10, 1949 and Fishpond Permit No. F-738-E was issued;

"That on February 6, 1958, private respondent (Angeles Dico) filed her fishpond application (Fp. A. No. 18206) to occupy the area covered by petitioner's fishpond lease agreement;

"That her application was disapproved on the ground that the area she applied had already been awarded to Juan Quibete, predecessor-in-interest of the petitioner, under Fishpond Permit No. F-738-E, and that a motion for reconsideration thereon was denied;

"That on February 29, 1964, Juan Quibete meanwhile sold and/or transferred his rights and interests over the area under Fishpond Permit No. F-738-E to one Petronilo Retirado;

"That on April 28, 1964, private respondent Angeles Dico filed a protest with the Philippine Fisheries Commission alleging that Juan Quibete was occupying and improving lot (Lot No. 489-C) which was not the area covered by his fishpond permit and that he transferred his rights and interests over the said area without the approval of the Secretary of Agriculture and Natural Resources;

"That the Philippine Fisheries Commissioner dismissed the protest on October 16, 1964 and declared that Lot No. 489-C was the same area granted to Juan Quibete under his fishpond permit and not any other lot;

"That from the decision private respondent Angeles Dico brought her case to the Secretary of Agriculture and Natural Resources who dismissed her appeal on December 7, 1965;

"That after denial of a motion for reconsideration, she appealed to the Office of the President. Her appeal was in turn dismissed in the decision of November 14, 1969.

"2. Re: DANR Case No. 3447
entitled 'F.P.A. No.
V-3-3852, Angeles Dico,
Applicant-Appellant v.
Juan Quibete,
Claimant-Appellee' (Annex 'F')[2]

"The facts of the case are as follows:

"That on November 13, 1965, while DANR Case No. 2898, supra, was still pending decision by the Secretary of Agriculture and Natural Resources, private respondent Angeles Dico filed with the Director of Lands a free patent application (No. V-3-3852) for a 4-hectare dry portion of Lot 489-C covered by Fishpond Permit No. F-738-E of Juan Quibete;

"That Juan Quibete, claiming preferential right over the area applied for, protested to the application;

"That the Director of Lands, in a decision dated May 30, 1967, rejected the application of private respondent Dico and directed Juan Quibete to file the appropriate public land application, if qualified, for the 4-hectare dry portion;

"That a motion for reconsideration having been denied, private respondent Dico appealed to the Secretary of Agriculture and Natural Resources;

"That under the same set of facts found in DANR Case No. 2898 aforesaid, the Secretary affirmed on July 9, 1970 the decision of the Director of Lands (Annex "F"), stating that the 4-hectare area subject of the appeal covered a portion of the same tract of land which was the subject matter of DANR Case No. 2898;

"That private respondent Dico moved to reconsider the Secretary's decision, Annex 'F', but her motion was denied on January 26, 1971. A second motion for reconsideration was likewise denied per Order dated May 5, 1971."

"3. As already stated, Petronilo Retirado became the successor-in-interest of Juan Quibete by virtue of a deed of transfer of rights and improvements executed by Juan Quibete in favor of Petronilo Retirado on February 29, 1964 over the area covered by Fishpond Permit No. F-738-E of Juan Quibete (Annex "A").

“4. Ultimately, petitioner (Godeliva S. Dulay) succeeded to the rights and interests over the area in question. On May 21, 1973, the heirs of Petronilo Retirado executed a 'Deed of Sale of Fishpond Improvements and Transfer of Rights' (Annex 'J') transferring their rights and interests in favor of the petitioner over a portion of Lot No. 489-C consisting of 19.15 hectares, more or less, and covered by their Fishpond Permit No. 158--2.

“5. On October 22, 1974, after application with the Department of Agriculture and Natural Resources, petitioner was issued a fishpond lease agreement (No. 2169) [Annex 'K'] over a portion of Lot 489-C consisting of 18.3675 hectares, expiring on December 31, 1998.

“6. On October 28, 1977, private respondent (Angeles Dico) submitted a letter-petition to the respondent officials (Annex 'L') requesting for a ‘reopening of fishpond conflict of Angeles Dico vs. Juan Quibete, Petronilo Retirado and Mrs. Godeliva S. Dulay based on newly discovered evidence’. It was there alleged that Fishpond Permit No. F-738-E of Juan Quibete did not cover the area in question (Lot No. 489-C) located in Sitio Talaba-an, Municipality of Cadiz (now Cadiz City) but Lot No. 487 located in Barrio Luna, Cadiz City. She prayed that petitioner's Fishpond Lease Agreement No. 2169 be cancelled and, in lieu thereof, a new one be issued in her name.

“7. Petitioner moved to dismiss the letter-petition on the ground of res judicata (Annex 'M'). She argued that the two administrative decisions in DANR Case No. 2898 and DANR Case No. 3447 (Annexes 'A' and 'F'), involving the same parties, subject matter and cause of action, have already become final and settled the matter once and for all.

“8. Claiming that res judicata is not applicable, private respondent opposed the motion to dismiss (Annex 'P'). This was the subject of a rejoinder (Annex 'Q') which was again excepted to by private respondent on the argument that res judicata does not apply in cases where the government has to exercise its inherent power to regulate (Annex 'R').

"Respondent Director held resolution of the motion to dismiss in abeyance. In an ‘Interlocutory Order’ dated February 24, 1978, he reserved to resolve the motion ‘until after termination of the investigation’ brought about by private respondent's letter-petition.”[3]

By reason of the denial not only of her Motion to Dismiss the letter-petition of respondent Angeles Dico dated October 28, 1977 but also the denial[4] of her motion for reconsideration[5] and the insistence of respondent Director in conducting his investigation on September 4 to 9, 1978 at the Bacolod City Fisheries Office,[6] the situation had become urgent for petitioner. Thus, she filed the instant petition praying for the issuance of a writ of preliminary injunction or restraining order claiming that unless one is immediately issued, respondent will proceed with the investigation as scheduled, and if petitioner refuses or fails to appear in said investigation by reason of this petition, the respondents will proceed with the investigation and reception of evidence ex-parte as clearly threatened by the respondent Director in his telegrams to the petitioner and his counsel, marked as Annexes 'T', 'U', 'W' and 'W-1' herein.

As prayed for, We issued a temporary restraining order in the Resolution of September 7, 1978.[7]

Private respondent Angeles Dico's request for the reopening of the case of "Dico vs. Quibete, et al." and the cancellation of the Fishpond Lease Agreement of petitioner Godeliva S. Dulay on the ground of fraud committed by Juan Quibete and Petronila Retirado is anchored, allegedly, on the following pieces of newly-discovered evidence, to wit:

“(1) Order of then Philippine Fisheries Commissioner Arsenio N. Rolden, dated May 12, 1964, recognizing the fishpond application (No. 18206) of private respondent, dated Feb. 6, 1958, over the area in question located at Barrio Daga, Talaba-an, Diotay, Cadiz City;

“(2) The Plan of the Bureau of Lands for the entire area of Lot 489 of which the subject area is a portion;

“(3) The Fishpond Application (No. 18950) of Juan Quibete (herein petitioner's successor-in-interest) for 5 hectares covered by Lot 489-B (25 hectares), situated at Barrio Daga, Talaba-an, Diotay, Cadiz City, was denied by Hon. Jose R. Montilla Assistant Director of Fisheries on May 19, 1960 because Juan Quibete was already a holder of a previously approved fishpond application under Permit No. 738-E under Lot 487 covering a 20-hectare area situated at Barrio Luna, Cadiz City;

“(4) The Plan of the aforesaid Lot 487;

“(5) Affidavits of three (3) persons who attest to the fact that Juan Quibete's fishpond area (Lot 487) is located at Barrio Luna, Cadiz City. The witnesses are Mansueto D. Alarcon, then Municipal Secretary of the Municipality of Cadiz, Negros Occidental dated January 6, 1965; Patrolman Eligio O. Javier, member of the police force of Cadiz, Negros Occidental, dated October 22, 1963 and Melecio Quibete, son of Juan, executed in May 1964.”[8]

After an exhaustive review of the records of the case, We grant the petition and make permanent the temporary restraining order issued earlier on September 7, 1978.

Private respondent's letter-petition,[9] filed October 28, 1977, states clearly that it is a "Request for Reopening of Fishpond Conflict of Mrs. Angeles Dico vs. Juan Quibete, Petronilo Retirado and Mrs. Godeliva S. Dulay based on New Discovered Evidence x x x."

It is already well-settled in our jurisprudence that the decisions and orders of administrative agencies rendered pursuant to their quasi judicial authority, have, upon their finality, the Force and binding effect of a final judgment within the purview of the doctrine of res judicata. The rule of res judicata which forbids the reopening of a matter once judicially determined by competent authority applies as well to the judicial and quasi-judicial acts of public, executive or administrative officers and boards acting within their jurisdiction.[10]

DANR Case No. 2898, entitled "Angeles Dico vs. Juan Quibete," was decided by the Office of the President on November 14, 1969.[11] Since the same was not brought to the courts for judicial review, the same has long become final and executory.

DANR Case No. 3447, entitled "Angeles Dico vs. Juan Quibete" involved Free Patent Application No. V-3-385 of private respondent Dico. The Director of Lands in a decision dated May 30, 1967 rejected her application. The Secretary of Agriculture and Natural Resources affirmed the same on July 9, 1970.[12] The findings of fact in said DANR case, which were found by the Secretary to be the same facts in DANR Case No. 2898, are deemed conclusive by operation of law.[13] Said DANR case, not having been brought likewise to the courts for judicial review, has also become final and executory.[14]

Private respondent points out that the Director of Lands, Ramon N. Casanova, treated her motion for reconsideration as a petition for relief from judgment. That may be so but Director Casanova's action was not in accord with the administrative rules on appeal. Actually, the next step that private respondent should have taken from the July 9, 1970 Decision of the Secretary of Agriculture and Natural Resources was to appeal the same to the Office of the President within 30 days from receipt of said Decision.[15] Private respondent received the Decision on September 21, 1970[16] and should have been appealed the same by October 24, 1970, the last day of filing. Instead she filed a motion for reconsideration only on November 3, 1970. Clearly, the July 9, 1970 decision of the Secretary of Agriculture and Natural Resources in DANR Case No. 3447 had become final and executory.

On the assumption, however, that private respondent's November 3, 1970 motion for recon-sideration was properly treated as a petition for relief from judgment, thereby also assuming that E.O. 19 (1966) was not applicable to private respondent's case, a careful review of her alleged "newly discovered evidence" does not support the charge of fraud.

Private respondent's allegation is that petitioner's predecessor-in-interest, Juan Quibete, was given Lot 487 under Fishpond Permit No. F-738-E while Lot 489-C, which she applied for under Fp.A. No. 18206, was what Juan Quibete actually improved. He sold his rights over this Lot 489-C to Retirado, who in turn sold his rights to petitioner.

Actually, private respondent filed on February 6, 1958 with the Bureau of Fisheries Fishpond Application, Fp. A. No. 18206, to occupy Lot No. 489-C after having allegedly verified from the records of the Bureau of Forestry that there was no prior lessee.[17] Her application was initially denied on the ground that said Lot 489-C, mistakenly written as Lot 487 in Quibete's original sketch, had already been granted to Quibete under Fishpond Permit No. F-738-E as early as February 10, 1949.[18]

In fact, it appears that what private respondent applied for was the very area of her husband, Celso Dico. This was confirmed by the Assistant Director of Forestry in his letter dated October 15, 1963 to the Commissioner of the Philippine Fisheries Commission.[19]

Private respondent protested on April 18, 1964 the denial of her application. To allow for further verification of her claim, the November 6, 1963 order denying her application was set aside by the order of May 12, 1964[20] -- the first alleged newly-discovered evidence of private respondent -- and another verification made on May 23, 1964 by one of the Commission's investigators, Mr. Cesar Alelis.[21] It was established that it was Quibete's Lot 489-C which private respondent was claiming, although erroneously labelled as Lot 487 by Quibete himself in the handwritten sketch he submitted to the Bureau of Fisheries on December 5, 1946.[22] Consequently, private respondent's Fishpond Application No. 18206 was denied with finality by the Philippine Fisheries Commission on October 16, 1964.[23]

Again, acting on the motion for reconsideration of his Office's denial of private respondent's appeal of said October 16, 1964 Order, the Secretary of Agriculture and Natural Resources ordered on March 6, 1968, one of the lawyers in his Office's Legal Division, Atty. Guillermo B. Bautista, to conduct another investigation and ocular inspection of the fishpond in dispute.[24]

The results were the same. It was Lot 489-C that was improved by Juan Quibete and not Lot 487. A surprise that cropped up in this latest investigation was the withdrawal by Melecio Quibete, son of Juan Quibete, of his statements in favor of private respondent which he said he made during the initial investigation regarding private respondent's Fishpond Application No. 18206 only because he was promised money to do so.[25] It turned out that private respondent welched on her promise. Since private respondent's claim to the land is anchored on her purchase of said land, together with improvements, from Melecio Quibete,[26] the withdrawal by the latter of his statements renders private respondent Dico's claim fallacious.

To sum up, the matter of which lot Juan Quibete improved as a fishpond and which rights he sold to Retirado was investigated TWICE after the Philippine Fisheries Commission reinstated private respondent's Fishpond Application No. 18206 in its Order of May 12, 1964. Both investigations -- more than three years apart with investigators from different offices -- showed that Juan Quibete occupied and improved Lot 489-C although in the different documents, including maps, which make up this case, it was designated as Lot 487. Thus, no merit can be given to private respondent's alleged pieces of evidence, number 2 and 5 (page 7-8, *supra*) as all these HAD already been studied thoroughly by both Investigator Alelis and Atty. Bautista in these separate investigations.

The matter having become final as of August or September 1970,[27] it was grave abuse of discretion on the part of public respondent Director of the Bureau of Fisheries and Aquatic Resources to give due course to private respondent's letter-petition of October 28, 1977 requesting for a re-opening of the fishpond conflict involved

herein.

WHEREFORE, premises considered, the petition is hereby GRANTED. Ordered ANNULLED and SET ASIDE are the (1) February 20, 1978 Order of the public respondent giving due course to the letter-petition of private respondent and the (2) two August 14, 1978 telegrams issued by public respondent setting private respondent's letter-complaint for formal investigation. The temporary restraining order issued last September 7, 1978 is hereby made PERMANENT. Costs against private respondent.

IT IS SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Campos, Jr., JJ., concur.

[1] Rollo, pp. 51-56.

[2] Id., pp. 68-70.

[3] Id., pp. 433-435.

[4] Annex "W", Rollo, p. 140.

[5] Annex "V", Id., p. 136.

[6] Annex "T"; Id., p. 134.

[7] Rollo, p. 170-A.

[8] Id., p. 438-A.

[9] Annex "L", Rollo, pp. 81-91.

[10] Republic vs. Neri, G.R. No. 57475, September 14, 1992, p. 17, citing Ysmael, Jr. and Co., Inc. vs. Deputy Executive Secretary, 190 SCRA 673, 680.

[11] Rollo, p. 56.

[12] Id., p. 70.

[13] "Section 4, CA 141 (The Public Land Act):

"xxx xxx xxx.

"Sec. 4. Subject to said control, the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decision as to questions of fact shall be conclusive when approved by the Secretary of Agriculture and Commerce."

[14] Id., p. 72.

[15] Rule 8[1(a)], Exec. Order No. 19 (1966), 62 O.G. 18, pp. 2940, 2942.

[16] Records, p. 72.

[17] Original Records, p. 375.

[18] Order of the Phil. Fisheries Commission dated Nov. 6, 1964; Original Records, p. 261.

[19] Original Records, p. 658.

[20] Rollo, p. 239.

[21] Original Records, pp. 671-688.

[22] Id., p. 15.

[23] Order of the Phil. Fisheries Commission dated Oct. 16, 1964 in "Quibete vs. Dico," penned by Acting Commissioner Arsenio N. Roldan. Original Records, p. 261.

[24] Order of the Secretary of Agriculture and Natural Resources in "Dico vs. Quibete," DANR Case No. 2895, p. 3; Original Records, p. 293.

[25] Id., p. 4; Original Records, p. 292.

[26] Rollo, p. 66.

[27] While DANR Case No. 3447 was decided July 9, 1970, the dates of receipt by parties were not indicated.

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