

## **AQUILINO C. MAULEON, PETITIONER AND APPELLANT, VS. THE HON. COURT OF APPEALS, THE SECRETARY OF AGRICULTURE AND VICENTE LIM, RESPONDENTS AND APPELLEES.**

*G.R. No. L-27762. August 07, 1975*

Ponente: ESGUERRA, J.

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### **ESGUERRA, J.:**

Petition for certiorari to review the decision of the Court of Appeals dated April 21, 1967, in its C.A.-G.R. No. 30724-R, reversing the judgment of the Court of First Instance, Masbate, and affirming the decision of the Director of Lands in Bureau of Lands Claim No. 107 (n) dated September 30, 1958, which was sustained by the Secretary of Agriculture and Natural Resources in his decision in D.A.N.R. No. 1897, dated July 9, 1959.

The factual milieu of the case, as found by the Court of Appeals and as established by the evidence on record, is as follows:

Lucas Bayot owned an untitled parcel of land in the town proper of Masbate, Masbate, bounded on one side by the Masbate Bay and a portion of a public land. In 1946 Bayot filed a revocable permit application covering the public land adjoining his own, but this was rejected by the Director of Lands for the reason that the land applied for would be needed by the government for future public improvements as per Resolution No. 24, series of 1945, of the Provincial Board of Masbate.

On July 11, 1951, Lucas Bayot leased his land for a term of ten years to Lim Yao Lam, married to Felisa Pantaleon (Exh. "54" p. 68 Records). The latter are the parents of Vicente Lim, private respondent-appellee herein.

In the early part of 1952, Vicente Lim started occupying and improving the foreshore land adjacent to the property leased to his father. In May of the same year, he filed with the Bureau of Lands his Foreshore Lease Application No. V-800 and in June, 1952, he likewise started to pay in the local office of the Bureau of Lands the corresponding fee for the occupation and use of the lands (Exhs. "9", "9-A" to "9-E" pp. 11-16 Records.).

In July, 1952, Vicente Lim secured from the Municipal Mayor of Masbate a building permit for the construction of a building on the land covered by his application. However on August 28, 1953, Lim's foreshore lease application was rejected by the Director of Lands by virtue of the then existing Resolution No. 24 of the Provincial Board of Masbate. Notwithstanding this rejection, Lim continued to occupy the land and paid the occupation fees as well, which fees were accepted and duly receipted for.

Meanwhile on March 31, 1952, Lucas Bayot sold the land which he leased to Lim Yao Lam to Aquilino Mauleon, petitioner-appellant herein. The latter filed with the Bureau of Lands his Foreshore Lease Application No. V-1128 on March 12, 1953, for the land previously applied for and occupied by Vicente Lim. Mauleon's application was similarly rejected on the same grounds that Lim's application was disapproved.

On November 24, 1955, Original Certificate of Title No. O-13 was issued to Lucas Bayot for the land he sold to

Mauleon. On February 10, 1956, Mauleon likewise obtained Transfer Certificate of Title No. T-206 for the same land.

On January 14, 1958, and on March 6, 1958, the Provincial Board of Masbate passed Resolution Nos. 17 and 100, respectively, amending Resolution No. 24 by excluding from its operation the foreshore land in dispute and allowing its disposition in favor of Lim. Accordingly, on January 21, 1958, Lim wrote a letter to the Director of Lands and requested the reinstatement of his foreshore lease application. This was favorable recommendation of the District Engineer of Masbate as well as the indorsement of the Collector of Customs (Exhs. "20", "23", pp. 34, 39, Record) in Lim's favor. At this time Lim had already used a portion of the land which had become a veritable reclaimed land, with a portion thereof being used as a public wharf.

On April 18, 1958, Mauleon filed with the Bureau of Lands a protest alleging that, as riparian owner, he has a preferential right to apply for the land in question. Said protest was docketed in the Bureau of Lands as BL Claim No. 107 (n), entitled "Aquilino Mauleon, Applicant in FLA V-1128, Claimant-Protestant vs. Vicente Lim, FLA No. V-800, Applicant Respondent." After investigation, the Director of Lands on September 30, 1958, decided in Lim's favor, dismissing Mauleon's claim and giving Lim sixty (60) days from receipt of decision to file a revocable permit application, which the latter did on November 29, 1958.

Mauleon filed a motion for reconsideration of the decision of the Director of Lands but this was denied. Hence Mauleon interposed an appeal to the Secretary of Agriculture and Natural Resources who likewise dismissed the appeal on July 9, 1959, in a decision rendered in D.A.N.R. Case No. 1897. Mauleon filed a motion for reconsideration which was also denied. From this denial, Mauleon instituted a petition for certiorari and prohibition before the Court of First Instance of Masbate, Civil Case No. 1227. On November 25, 1961, the said court rendered its decision declaring null and void the decision rendered by the Secretary of Agriculture and Natural Resources and allowing Mauleon to file a revocable permit application for the land in question.

From this decision, respondents Vicente Lim and the Secretary of Agriculture and Natural Resources appealed to the Court of Appeals, which appeal was docketed as CA-G.R. No. 30724-R. On April 21, 1967, the Court of Appeals reversed the decision of the trial court. Hence this petition for certiorari, with petitioner-appellant assigning the following alleged errors:

1. The Honorable Court of Appeals erred in holding that the trial court exceeded its jurisdiction by making its own finding of facts in reversing the decision of the Secretary of Agriculture and Natural Resources and Director of Lands;
2. The Honorable Court of Appeals erred in holding that section 4 Lands Administrative Order No. 8-3 is inconsistent or inoperative under the Public Land Act, Commonwealth Act 141;
3. The Honorable Court of Appeals erred in sustaining on appeal a change of theory by appellant regarding the citizenship of Vicente Lim.

The issue posed here for resolution involves as well-settled doctrine which the Court of Appeals rightly adhered to - that the decisions of the Director of Lands on the interpretation and application of the Public Land Law are entitled to great respects by the courts. This has been the ruling since the early case of *Fortunato Ortua vs. Vicente Encarnacion*[1] where this Court said:

"The Director of Lands has been made by law a quasi-judicial officer. As such officer, he makes findings of fact, even passes upon questions of mixed fact and law, and considers and decides the qualifications of applicants for the purchase of public lands. A discretion is lodged by law in the Director of Lands which should not be interfered with."

Corollary to this is another established rule in our jurisprudence relative to the weight of the findings of fact in executive decisions — that they are final and conclusive and binding on the courts in the absence of fraud, collusion or grave abuse of discretion. The question now to determine is whether or not the Director of Lands and the Secretary of Agriculture abused their discretion in upholding Lim's application over that of Mauleon.

We have gone over the record and Our findings negate Mauleon's claim of grave abuse of discretion. Mauleon's protest is unfounded. From the start, Vicente Lim has shown interest over the land in dispute; in fact applied for it (Foreshore Lease Application No. V-800); procured a building permit for the construction of a warehouse which he did construct, as well as a wharf which he occupied, and paying the fees for its occupancy. Mauleon's claim on the other hand is solely based on his being a riparian owner for having bought the land adjacent to the foreshore land in dispute on March 31, 1952, but he never occupied it nor introduced any improvement thereon. Instead, the land adjacent to the foreshore land and allegedly sold to him (Mauleon) continued to be occupied by Lim Yao Lam, father of Vicente Lim, as evidenced by the receipts for payment made by Lim Yao Lam, which receipts were signed by Mauleon for and in behalf of Lucas Bayot. We noted that the receipts for payments made by Lim Yao Lam to Mauleon cover the period from December 1956 to 1960 after the sale of the land from Bayot to Mauleon had been effected in 1952 and after a transfer certificate of title for the same land in the name of Mauleon had been issued on February 10, 1956; and even payments after 1956 were made to Mauleon but still for and on behalf of Bayot. (Exh. "55", pp. 70-93, Record)

It likewise appears from the record that Mauleon filed his Foreshore Lease Application only on March 12, 1953, almost a year after Lim's application for lease had been filed and after Lim had started occupying and introducing improvements on the foreshore land. It is true that both the applications of Lim and Mauleon were rejected by the Director of Lands for the reason that the government would need the same for future public improvements (Res. No. 24, supra). Subsequently, however, said Resolution was amended by Resolution Nos. 17 and 100 series of 1958 (Exhs. "15" and "19") which provided for the exclusion of the area applied for by Lim from the operation of Resolution No. 24. The area occupied by Lim did not, according to said resolution, in any way affect the plan to beautify the area covered by Resolution No. 24, series of 1945, besides the fact that the province of Masbate was deriving income from the taxable products loaded and unloaded at the wharf constructed by Lim. Further, additional revenue was derived by the government from the occupation fees and property taxes regularly paid by Lim. The District Engineer and the Collector of Customs also issued certifications interposing no objections to Lim's foreshore lease application (Exhs. "20", "23" pp. 34, 39 Record). Hence the reinstatement of Lim's lease application as per order of the Director of Lands on March 19, 1958. We see, therefore, no abuse of discretion committed by either the Director of Lands or the Secretary of Agriculture in awarding to Lim the right to Lease the foreshore land in question.

The land in dispute being foreshore -and part of the public domain is covered by the Public Land Act (Commonwealth Act 141), particularly Chapter IX, sections 58 to 68[2]. And related to these provisions are sections 3, 4, and 5 of the same Act[3] which deal with the functions of the Secretary of Agriculture and Natural Resources in relation to the public domain.

The facts of the case at bar clearly speak for themselves. There is substantial evidence supporting the findings of the administrative officials concerned, the Director of Lands and the Secretary of Agriculture, on a matter (public lands) within their competence. The courts are bound to look no further than the record and cannot even consider contrary evidence to determine where the preponderance thereof lies. Such was the holding of this Court in *Borja vs. Moreno*, L-16487, July 31, 1964, which was the stand of respondents-appellees correctly upheld by the Court of Appeals. It was, therefore, error for the lower court to have made its own findings of facts in disregard of the findings of the Secretary of Agriculture. As enunciated in *Lovina et al. vs. Hon. Florencio Moreno*, L-17821,

November 29, 1963, and reiterated in very recent cases.[4]

"The findings of the Secretary cannot be enervated by new evidence not laid before him, for that would be tantamount to holding a new investigation, and to substitute for the discretion and judgment of the Secretary, the discretion and judgment of the court, to whom the statute had not entrusted the case."

Continuing further, this Court said:

"It is immaterial that the present action should be one for prohibition or injunction and not one for certiorari; in either event the case must be resolved upon the evidence submitted to the Secretary, since a judicial review of executive decisions does not import a trial de novo but only an ascertainment of whether the executive findings are not in violation of the Constitution or of the laws, and are free from fraud or imposition and whether they find reasonable support in the evidence." (Italics supplied).

We likewise quote with approval portions of the Court of Appeals decision on the "alleged rights" of a riparian owner thus:

"The court below, in granting to appellee Mauleon the preferential right to occupy temporarily the foreshore land in question obviously applied section 4 of Lands Administrative Order No. 8-3 which provides as follows:

'Section 4 — Preference of riparian owner. — The owner of the property adjoining shore or marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers, shall be given preference to apply for such lands adjoining his property as may not be needed for the public service, subject to the laws and regulations governing lands of this nature, and the limitation established in Section 10 hereof; Provided that he applies therefore within sixty days from the date he received notice from the Director of Lands.'

"The above-named order is dated April 30, 1936 but made effective as of January 1, 1936. It was promulgated before the passage of Commonwealth Act No. 141 which took effect on December 1, 1936, or eleven months after the effectivity of the former. The said order was issued pursuant to the existing public land law, Act No. 2874, but the provisions of the said order were never altered; modified or amended even after the enactment of the Public Land Act. A close study of the latter law will disclose that it does not grant preferential right or rights to riparian owners, which simply means that Lands Administrative Order No. 8-3 can only find justification under Section 5 (supra) of the said Public Land Law.

"Now then since there is no provision in the Public Land Law which grants preferential rights to riparian owners, it follows that Section 4 of the aforesaid Lands Administrative Order 8-3 must be inconsistent therewith. This is because the Secretary of Agriculture in promulgating the said order was then merely implementing the existing public land law, Act No. 2874, but the preferential right of a riparian owner by the express language of the said order was 'subject to the laws and regulations governing lands of this nature.' And in the case under review, the respondent officials found as a fact that the land in question is foreshore land and that it is suitable for residential, commercial and industrial purposes. Lands of this nature being foreshore, their application and disposition under revocable or temporary permit is governed by the provisions of Chapter IX, Title III of the Public Land Act, specifically Section 58 (supra) and 59. And by Section 59 of the said Public Land Act, foreshore lands shall be disposed of to private parties by lease only and not otherwise, as soon as the President of the Philippines, upon recommendation of the Secretary of Agriculture and Natural Resources shall declare that the same is not necessary for public service and are open to disposition. The lease shall be made thru oral bidding; and the award shall be made to the highest bidder. (Sec. 87 idem)

"Since, however, the foreshore in question has not been declared by the President of the Philippines open to disposition to private parties, it may be disposed of only under Section 68 of the same law, supra.

"We believe herein that Vicente Lim has a better right to the foreshore in dispute under the aforecited section since he was first in occupancy thereof, had religiously paid the occupation fees therefor, had used the same for a productive purpose and had invested a substantial amount for its improvement."

It is likewise contended by petitioner-appellant that a grave abuse of discretion was committed by the Director of Lands in issuing a revocable permit to Lim who allegedly was a Chinese and, therefore, disqualified to lease. Mauleon concedes the fact that Lim chose to become a Filipino and he does not question his qualifications. However, it is Mauleon's contention that Lim was still a minor when he elected Philippine citizenship in October 1951, because while in Lim's baptismal register there appears an entry that he was born on September 25, 1930, a notation likewise appears at the bottom thereof, viz: "Observaciones nacio el dia 3 de Noviembre-segun informacion de la madre". Mauleon claims that Lim who was still a minor when he elected Philippine citizenship never acquired the same validly. To Our mind, the issue of citizenship in this particular case is not so material and fatal to Lim's having been rightfully awarded the permit to lease temporarily the foreshore land in dispute. Petitioner-appellant, was never successful in proving that it was really the mother of Vicente Lim who gave the information as noted at the bottom of the baptismal register. On the contrary Vicente's mother who was still alive when this case was heard in the lower court testified that she gave birth to Vicente on September 25, 1930. The question of Vicente Lim's citizenship was also the subject of an investigation by the Department of Justice in 1953 on the instigation of Mauleon's counsel and the Secretary of Justice rendered Opinion No. 214 series of 1953, and opinion No. 256, series of 1959, holding: "As above adverted to, his mother declared in 1948 that her son Vicente Lim was born on September 25, 1930. Under these circumstances, We see no valid and sufficient reason to give more weight to the subsequent notation over the baptismal entry." (p. 8 Rec.) Besides, Lim's citizenship is not decisive as to his right to lease. As provided in Section 60 of the Public Land Law which reads:

"Section 60 — Any tract of land comprised under this title may be leased or sold as the case maybe, to any person, x x x authorized to purchase or lease public lands x x x Provided further, That any person, corporation, association, or partnership disqualified from purchasing public land for agricultural purposes under the provisions of this Act, may lease land included under this title suitable for industrial or residential purposes, but the lease granted shall only be valid while said land is used for the purposes referred to." (Italics supplied.)

Clearly, the law allows Lim to lease foreshore lands. With more reason should We allow Lim to occupy the land in dispute under a revocable permit since the latter partakes of a mere temporary occupation. As defined in Castrillo's Law on Natural Resources (Sixth Ed. p. 81), a revocable permit is a permit issued for the temporary occupation and use of a tract of land not covered by a regular public land application.

WHEREFORE, the judgment appealed from is hereby affirmed and herein petition denied. Costs against petitioner.

### **SO ORDERED.**

Castro, (Chairman), Makasiar, Muñoz Palma, and Martin, JJ., concur.

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[1] No. 39919 January 30, 1934, 59 Phil. 440, 443.

[2] "Section 58 — Any tract of land of the public domain which being neither timber nor mineral land, is intended to be used for residential purposes or for commercial, industrial, or other productive purposes other than agricultural, and is open to disposition or concession, shall be disposed of under the provisions of this chapter and not otherwise.

"Section 68 — The Secretary of Agriculture and Natural Resources may grant to qualified persons temporary

permission, upon payment of a reasonable charge for the use of any portion of the lands covered by this chapter, for any private purpose, subject to revocation at any time when in his judgment, the public interest shall require it."

[3] "Section 3 — The Secretary of Agriculture and Natural Resources shall be the executive officer charged with carrying out the provisions of this Act through the Director of Lands who shall act under his immediate control.

"Section 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 public domain, and his decisions as to questions of facts shall be conclusive when approved by the Secretary of Agriculture and Natural Resources.

"Section 5 — The Director of Lands, with the approval of the Secretary of Agriculture and Natural Resources, shall prepare and issue such forms, instructions, rules and regulations consistent with this Act, as may be necessary and proper to carry into effect the provisions thereof arising under such provisions."

[4] Amado Lacuesta vs. Melencio Herrera L-33646 January 28, 1975; Syquiao vs. Sta. Maria 55 SCRA 736; Nera vs. Titong L-25559, March 21, 1974, 56 SCRA 40.

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