

HON. MANUEL B. SYQUIO, SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS, ALMARIO C. LIBIRAN, OFFICER-IN-CHARGE, OFFICE OF THE DISTRICT ENGINEER, MALOLOS, BULACAN, PETITIONERS, VS. H...

G.R. NO. L-35479. February 28, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petitioners appeal by certiorari to annul and set aside the decision dated May 3, 1972, of the respondent Court of First Instance of Bulacan (Honorable Andres Sta. Maria, Presiding) in its Civil Case No. 3991-M, entitled "Alfredo Clemente vs. Hon. Manuel B. Syquio, Secretary of Public Works and Communications, et al.", the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered, declaring null and void and of no force and effect the questioned decision and order of the respondent Secretary and any or all writs of executions or orders issued in consequence or in pursuance thereof, and the restraining order issued by this Court dated February 5, 1971, is declared permanent."

Petitioners further seek to have the decision of petitioner Secretary of Public Works and Communications, dated July 16, 1970, in Administrative Case R.A. 2056, No. 3862, reinstated and executed and the order issued by respondent court restraining its execution dissolved.

I. Facts of the Case

In Civil Case No. 3991-M of the Court of First Instance of Bulacan, Alfredo Clemente, private respondent herein, sought to enjoin and prohibit petitioners herein, together with one Romeo Mendoza, from enforcing the decision of the Secretary of Public Works and Communications, dated July 16, 1970, in Administrative Case R.A. 2056, No. 3862, ordering said Alfredo Clemente to remove the encroachments and the store he caused to be constructed on the bed of the Talipit River in Bulacan, Bulacan, and to restore said portion of the river to its original condition. Respondent court issued a restraining order preventing petitioner Secretary of Public Works and Communications, as respondent therein, from executing and enforcing his decision.

After petitioners herein, as respondents in the Court below, have filed their answer to the petition, and issues have been joined, the respondent court after hearing rendered its decision above-mentioned in Civil Case No. 3991-M, declaring null and void the questioned decision of the Secretary of Public Works and Communications, including all orders and writs of execution to carry it out, from which decision petitioners have taken this appeal by certiorari. Petitioners seek to nullify and set aside the respondent court's decision on the ground that in declaring null and void and of no effect the decision of the Secretary of Public Works and Communications, and its implementing orders, it acted with grave abuse of discretion amounting to lack of jurisdiction, considering the factual findings of the said Secretary that private respondent Alfredo Clemente filled a portion of the bed of the Talipit River with adobe stones and constructed his sari-sari store thereon despite the fact that said river is a

public navigable stream which is not susceptible to private appropriation.

It turns out that private respondent Alfredo Clemente had filed with the respondent Court Registration Case No. 2454-M seeking to register his title to the said portion of the river which he reclaimed and on which he has constructed his sari-sari store. The said portion was surveyed, the corresponding plan and technical description prepared; the application for registration filed and said application was pending when the decision of petitioner Secretary of Public Works and Communications was rendered. It was precisely to prevent the execution of said decision while the registration case is pending that Civil Case No. 3991-M was instituted.

II. Issue of the Case

The sole issue in this case is whether the Secretary of Public Works and Communications has jurisdiction to consider and decide Administrative Case R.A. 2056, No. 3862, during the pendency of Land Registration Case No. 2454-M, or should have suspended the proceedings in said Administrative Case until after the final determination of the Registration Case.

III. Discussion

The power of the Secretary of Public Works and Communications on the matter is found in Republic Act No. 2056, which, insofar as material hereto, reads as follows:

"Section 1. Any provision or provisions of law to the contrary notwithstanding, the construction or building of dams, dikes or any other works which encroaches into any public navigable river, streams, coastal waters and any other navigable public waters or waterways as well as the construction or building of dams, dikes or any other works in areas declared as communal fishing grounds, shall be ordered removed as public nuisances or as prohibited constructions as herein provided; Provided, however, That the Secretary of Public Works and Communications may authorize the construction of any such works when public interest or safety so requires, or when it is absolutely necessary for the protection of private property.

"Section 2. When it is found by the Secretary of Public Works and Communications, after due notice and hearing, that any dam, dike or any other works now existing or may thereafter be constructed encroaches into any public navigable waters, or that they are constructed in areas declared as communal fishing grounds, he shall have the authority to order the removal of any such works and shall give the party concerned a period not to exceed thirty days for the removal of the same; * * *."

The power and jurisdiction of the Secretary of Public Works and Communications to order the removal or destruction of obstruction to public navigable streams is now well settled. (*Lovina vs. Moreno*, L-17821, Nov. 29, 1963; 9 SCRA, p. 557; *Taleon vs. Secretary of Public Works and Communications*, L-24841, May 16, 1967; 20 SCRA p. 69).

Respondents contend that the petitioner Secretary of Public Works and Communications is without jurisdiction to order the removal or destruction of private respondent Alfredo Clemente's construction as to do so would be ordering his ejectment from a property of which he has possession, and only the Courts are vested with the power to do so. The argument proceeds from a wrong premise. The property in question is not private property which may be subject to lawful possession, but a portion of the bed of a navigable stream which has been obstructed, and which obstruction brought about the existence of such alleged private property. The case clearly comes within the purview of Republic Act No. 2056 and the Secretary of Public Works and Communications merely complied with his clear duty under the law.

The pendency of the land registration proceedings is no ground for the suspension of the exercise of the powers of the Secretary of Public Works and Communications. Once he has determined after due hearing where the claimant was given an opportunity to be heard and to present his evidence that the reclaimed area in question

constitutes an obstruction to a navigable stream, he can order its removal or destruction. In this case private respondent Alfredo Clemente was afforded a full and fair hearing and the finding of the Secretary of Public Works and Communications is that the property involved is a private construction which obstructs the normal flow of the Taliptip River, a public navigable stream. That it is so is not seriously disputed by the respondent but they seek to prevent the exercise of the powers of petitioner Secretary of Public Works and Communications by the interposition of the pendency of the registration case involving the land in question including the alleged improvements thereon. To accede to respondents' view would immobilize the Secretary of Public Works and Communications or divest him of the powers granted by Republic Act No. 2056. Under such theory any person may encroach on any navigable public stream or obstruct the same; then file an application for registration of the area encroached upon and invoke the pendency of his application to frustrate the exercise of the powers of the Secretary of Public Works and Communications. It would set at naught the very purpose of said law by sanctioning its circumvention.

Republic Act No. 2056 was enacted precisely to devise effective ways and means to expedite the removal or destruction of obstructions to navigation along public navigable stream (*Santos vs. Moreno*, L-15829, Dec. 4, 1967; 21 SCRA, pp. 1141, 1150). As stated by this Court in the aforecited case:

"x x x Republic Act No. 2056 underscores the urgency and summary nature of the proceedings authorized thereunder. Thus in Section 2 thereof the Secretary of Public Works and Communications under pain of criminal liability is duty bound to terminate the proceedings and render his decision within a period not exceeding 90 days from the filing of the complaint. Under the same section, the party respondent concerned is given not more than 30 days within which to comply with the decision of the Secretary of Public Works and Communications, otherwise the removal of the dams would be done by the Government at the expense of said party."

If the power of the said Secretary extends even to the determination of whether a depression is a public navigable stream although it is inside a property registered under the Torrens system, and the delimitation of its course may be made even after the decree of registration has become final, (*Lovina vs. Moreno*, supra, *Taleon vs. Secretary of Public Works and Communications*, supra), much less should the pendency of an application to register title have the effect of divesting him of his power to inquire and decide after due hearing whether or not the construction or reclamation made by a private person, like respondent Alfredo Clemente, encroaches upon or obstructs a public navigable stream and to order its removal. The legislature did not intend Republic Act No. 2056 to be emasculated or rendered nugatory by the expedient resorted to by private respondent Alfredo Clemente.

There being no allegation or showing herein that there was fraud, collusion, grave abuse of discretion, illegality, or imposition on the part of the Secretary of Public Works and Communications in rendering his assailed decision, or total absence of substantial evidence to support the same, said decision carries great weight and is entitled to respect by the Courts. (*Lovina vs. Moreno*, supra, *Macatangay vs. Secretary of Public Works and Communications*, L-21673, May 16, 1966, 17 SCRA, p. 31; *Santos vs. Public Works and Communications*, L-16949, March 18, 1967; 19 SCRA, p. 637; *Taleon vs. Secretary of Public Works and Communications*, supra; *Borja vs. Moreno*, L-16487, July 31, 1964, 11 SCRA, p. 568; *Timbancaya vs. Vicente*, 62 O.G. 9454; *Pindangan Agricultural Co. vs. Dans*, L-14591, April 25, 1962, 4 SCRA p. 1035; *Lim vs. Secretary of Agriculture and Natural Resources*, L-26990, August 31, 1970, 34 SCRA, p. 751).

IV. Conclusion

The decision of the Secretary of Public Works and Communications dated July 16, 1970, in Administrative Case R.A. 2056, No. 3862, having been arrived at after full and fair hearing and is supported by substantial evidence, the action of the respondent Court in annulling said decision and restraining its enforcement is tainted with grave

abuse of discretion amounting to excess or lack of jurisdiction.

WHEREFORE, the petition is granted. The decision of respondent Court dated May 3, 1972, is hereby annulled and set aside. The restraining order issued by said Court, dated February 5, 1971, is hereby lifted and revoked, and the decision of petitioner Secretary of Public Works and Communications, dated July 16, 1970, is hereby reinstated, shall be given full force and effect and carried out in accordance with law. Costs against private respondent Alfredo Clemente.

SO ORDERED.

Makalintal, C.J., Castro, Teehankee, Makasiar, and Muñoz Palma, JJ., concur.

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