

**ROSITA C. TALEON AND MIGUEL SOLIS, PETITIONERS-APPELLANTS,
VS. THE SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS,
THE DISTRICT ENGINEER, PROVINCE OF DAVAO, AND LUCIA O.
TOLENTINO...**

G.R. No. L-24281. May 16, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Petitioner-appellant Rosita Taleon is the registered owner of a parcel of land in Lupon, Davao, which she acquired from her co-petitioner-appellant Miguel Solis who had constructed therein man-made canals and fishpond dikes.

On April 17, 1961, respondent-appellee Lucia Tolentino wrote a letter-complaint to the Secretary of Public Works stating that several fishpond operators and/or own-ers in Lupon, Davao have built dams across and closed the Cabatan River, a public navigable stream, thereby depriving her and the residents therein of passageway, fishing ground and water supply. This letter-complaint was for-mally amended on June 9, 1961, wherein Tolentino specified appellants Taleon and Solis, and another neighbor, one Humberto de los Santos, as those responsible for the clos-ing of the alleged Cabatan River, on the banks of which their lands abutted. On June 13, 1961, Taleon filed her answer denying the existence of the alleged river and claiming that the dams were constructed inside her registered property and that her water source was a man-made canal connected to the sea.

An administrative hearing was thereafter held. On July 11, 1961, the Secretary of Public Works, through the department undersecretary, rendered a decision finding that appellants were indeed obstructing the Cabatan River, a public navigable stream which used to pass inside their lands, with the dams they constructed thereon, and ordering their demolition. Appellants filed a motion to reconsider claiming that the ruling was contrary to the facts established and that the Secretary had no jurisdiction over the case. This was denied.

Appellants elevated the case to the Office of the President on October 11, 1961. After reviewing the records, said office affirmed on November 10, 1961 the decision of July 11, 1961. Appellants filed a motion to re-consider based on an alleged decision of Public Works Secretary Moreno rendered on November 24, 1961, reversing the former ruling of July 11, 1961. On January 10, 1962, the Office of the President denied the motion, on two grounds: (1) An official examination of the records of the case showed that said decision of Secretary Moreno did not form part thereof, and (2) even if it were genuine, it had no legal effect since the Secretary had already lost jurisdiction when appellants filed their appeal to the President.

On February 9, 1962, Taleon was informed by the Dis-trict Engineer of Davao that her dams would be demolished on February 16, 1962, upon orders of the Executive Secretary, the administrative decision having become final and executory. To stop the threatened demolition, appellants filed suit in the Court of First Instance of Davao against the Public Works Secretary and the Engineer of Davao. They were able to obtain a writ of preliminary injunction on February 15, 1962.

On September 1, 1962, appellants filed a similar petition for certiorari and prohibition with preliminary injunction against the herein respondents-appellees in the Court of First Instance of Manila. After the latter's respective answers were filed and the case in Davao was dismissed, upon appellants' motion, said Manila court issued the writ of preliminary injunction prayed for, altho in form a temporary restraining order with bond.

The issues having been joined, a pre-trial conference was held and the Court of First Instance of Manila allowed respondents to file a motion to dismiss the petition. Upon orders of said court, the administrative records were sent up. On January 11, 1965, acting on the respective memoranda submitted by the parties in support of and in opposition to the pending motion to dismiss, the court a quo ruled that appellants were given a fair hearing in the administrative case and that the decision therein was supported by the evidence adduced and dismissed the petition, stating:

"WHEREFORE, finding merit in the respondents' Motion to Dismiss, GRANTED. Let this petition be, as it is hereby, DISMISSED, with costs against petitioners.

"The temporary restraining order issued on 17 December 1962 is hereby dissolved and the bond filed by petitioners, cancelled."

Taking issue with this ruling, the petitioners instituted the present appeal, raising questions purely of law. They submit that the court a quo erred in dismissing the case without giving them trial, thereby depriving them of the opportunity to prove that the alleged extension of the Cabatan River passing across their property is but a depression and that the decision rendered by Secretary Moreno on November 24, 1961, is genuine. Appellants also reiterate that the Secretary of Public Works has no jurisdiction over the case, since the dams and the body of water in question were located inside registered private property.

Appellants' contentions are without merit. First of all, a full trial was not needed. The issues raised before the court a quo were all purely legal and thus could be resolved on the basis of the pleadings and memoranda filed and the administrative records sent up to it. No necessity was there for further reception of evidence.

Anent the jurisdiction of the Secretary of Public Works, this point has been squarely covered in *Lovina v. Moreno*, L-17821, November 29, 1963.[1] There We upheld the power of the Public Works Secretary under Republic Act 2056 to declare as a public navigable stream any alleged depressions or bodies of water even inside titled properties. That case involved a creek, located inside a titled land, which was alleged to be privately owned. The Public Works Secretary declared it as part of a public stream which plaintiffs therein had blocked with their dams. In sustaining the Secretary, We there ruled that such fact-finding power on his part was merely incidental to his duty to clear all navigable streams of unauthorized obstructions and, hence, its grant did not constitute an unlawful delegation of judicial power. And We remarked there that although the title was silent as to the existence of any stream inside the property, that did not confer a right to the stream, it being of a public nature and not subject to private appropriation, even by prescription.

Appellants would offer affidavits - which are hear say[2] and testimonies aliunde to show that the alleged Cabatan River inside their property is really a mere depression. As also enunciated in *Lovina v. Moreno*, supra, however, there cannot be a trial de novo in cases of this nature, since a review of an administrative finding is limited to the evidence already presented before the administrative body.[3] This rule bars presentation of evidence aliunde and limits the trial court's functions to determining whether there is evidence in the administrative records substantial enough to support the findings therein. Here, the records of the administrative case were actually brought up and submitted to the court a quo and it held that the administrative finding that the alleged depression was really a part of the navigable Cabatan River was supported by substantial evidence. Said court fully did its duty; to have gone further would have been exceeding its power.

Regarding the alleged second decision of the Secretary, its non-existence has been officially certified by the Chief of the Records Division of the Department of Public Works, the official custodian.[4] This alone is proof enough that there is no such decision.[5] But even granting that there is really such a decision, it would not help appellants' cause any. Said decision would still be wanting of legal force and effect since Secretary Moreno had already lost jurisdiction to revoke the former ruling because of the appeal then already taken by appellants themselves to the Office of the President, which affirmed the former ruling. And even conceding jurisdiction, the second decision could still affect nothing since it was actually revoked and reversed by the ruling of the Office of the President, dated January 10, 1962, which denied the motion to reconsider filed by appellants wherein they invoked said new decision. So, a full trial to prove the authenticity of the Moreno decision would be a pointless waste of the court a quo's time.

It is recognized that the trial court may dismiss a petition for certiorari even after an answer is filed upon a motion to dismiss, where said petition is found to be patently without merit.[6] But the court a quo did not summarily dismiss the petition. It conducted a pre-trial conference and even ordered the records in the administrative case to be elevated to it. Now the Rules of Court[7] authorizes the trial court to render judgment on the pleadings or a summary judgment, as justice may require, if at the pre-trial it finds that facts exist which would warrant such judgment. All the necessary facts being already before the court a quo, no further trial was required. Its decision rendered at that stage was there-fore sanctioned by the Rules.

WHEREFORE, the judgment appealed from is hereby affirmed, with costs against petitioners-appellants.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] See also *Borja v. Moreno*, L-16487, July 31, 1964.

[2] *Ismael v. Guanzon*, 2 Phil. 347.

[3] See also *Timbancaya v. Vicente*, L-19100, Dec. 27, 1963.

[4] Records, p. 221.

[5] Sec. 29, Rule 132, Rev. Rules of Court; *People v. Que-bral*, 68 Phil. 564.

[6] *Arvisu v. Vergara*, 90 Phil. 621; *Chan v. Galang*, L-21732, Oct. 17, 1966.

[7] Sec. 3, Rule 20, Rev. Rules of Court.

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