

**JOSE T. PASTOR, GEMELO PASTOR, PASCUAL PASTOR, HON.  
SECRETARY OF AGRICULTURE AND NATURAL RESOURCES AND  
HON. EXECUTIVE SECRETARY, PETITIONERS, VS. FRANCISCO B.  
ECHAVEZ, LUISA SY D...**

*G.R. No. L-30593. September 30, 1977*

Ponente: GUERRERO, J.

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**GUERRERO, J.:**

This is a petition for certiorari to review the decision of the Court of Appeals[1] in CA-G.R. No. 31545-R entitled "Francisco B. Echavez, et al., plaintiffs-appellees vs. Jose T. Pastor, et al, defendants-appellants" denying the petition for certiorari instituted therein to nullify the administrative decisions of the Secretary of Agriculture and Natural Resources and the Executive Secretary dated September 9, 1957 and August 20, 1959, respectively in DANR Case No. 1192 entitled "Jose T. Pastor vs. Francisco B. Echavez."

The above-cited administrative decisions of the respondent officials were first sought to be annulled in the Court of First Instance of Leyte by the plaintiffs therein (now the private respondents) and in fact were declared null and void by the court which also recognized the fishpond permits of plaintiffs therein. The defendants (now the herein petitioners) then sought recourse in the Court of Appeals.

The facts established in the record are as follows:

On August 9, 1946, petitioner Jose T. Pastor applied for a certain fishpond situated at barrio San Juan, Palompon, Leyte, which after compliance with the requirements, was granted on August 1, 1947. Respondent Francisco B. Echavez applied for the same area on June 1, 1950 but his application was rejected on May 20, 1953 on the ground that the area applied for was within the fishpond permit of petitioner Jose T. Pastor under Permit No. F-463-C. On July 22, 1953, the Director of Fisheries cancelled the fishpond permit of petitioner Jose T. Pastor for alleged violation of Rule 12 of the fishpond permit in failing to introduce improvements thereon after more than six (6) months and failure also to pay the rentals, which cancellation order was received by Jose T. Pastor on July 28, 1953. On August 27, 1953, Jose T. Pastor filed a motion for reconsideration of the said order of cancellation and sought reinstatement of his fishpond permit. On February 1, 1954, the Director of Fisheries declared that the order of cancellation of the fishpond permit of petitioner Jose T. Pastor had already become final and executory and accordingly, the Director reconsidered his previous rejection of the application of respondent Francisco B. Echavez and gave due course to the latter's fishpond application. Petitioner Jose T. Pastor appealed to the Office of the Secretary of Agriculture and Natural Resources, disputing the order of the Director of Fisheries finding the order of cancellation final and executory. Acting upon this appeal, the Undersecretary of Agriculture and Natural Resources, acting by authority of the Secretary of Agriculture and Natural Resources, resolved to dismiss the appeal and concluded that the order of the Director of Fisheries was final and executory.

Petitioner Jose T. Pastor moved for a reconsideration of this order of the Secretary, submitting evidence that he filed his motion for reconsideration seasonably, and further requesting for a reinvestigation of the case which the

Secretary granted.

After a reinvestigation had been conducted, the Secretary of Agriculture and Natural Resources issued another order dated September 9, 1957 setting aside the order of the Director of Fisheries which cancelled the fishpond permit of Pastor, declaring in full force and effect said permit provided that Pastor pays all the back rentals and reimburses Francisco B. Echavez the appraised value of the improvements made by the latter in the area. Upon motions for reconsideration by both parties, the order of the Secretary of Agriculture and Natural Resources was modified in the sense that Jose T. Pastor was exempted from paying the back rentals corresponding to the period from October of 1955 when he was deprived of the possession of the area in dispute up to the time he reacquired possession thereof.

Petitioner Pastor also appealed to the Office of the President as he was being required to reimburse respondent Francisco B. Echavez for the value of the improvements allegedly introduced by the latter, and on August 20, 1959, the Executive Secretary acting by authority of the President, relieved the petitioner Jose T. Pastor of the requirement to make said reimbursement. Respondent Francisco B. Echavez moved for a reconsideration of this decision but the same was denied.

The dispute was now brought to the Court, for on June 15, 1960, Francisco B. Echavez, joined by Luisa Sy de Echavez, Erlinda, Teresita, Victor, Eugenio, Eduardo, all surnamed Perez filed a petition for certiorari before the Court of First Instance of Leyte praying for the annulment of the administrative order issued by the Secretary of Agriculture and Natural Resources and the decision of the Executive Secretary dated September 9, 1957 and August 20, 1959. respectively, and that they be declared as the rightful permittees of the fishpond area under dispute in accordance with the order of the Director of Fisheries dated February 1, 1954 and the order of the Secretary of Agriculture and Natural Resources dated October 3 2, 1955.

The complaint was later amended to include as additional defendants the Secretary of Agriculture and Natural Resources and the Executive Secretary.

After several postponements, the case was set for hearing on December 1, 1961. The parties were all notified except the City Attorney of Ormoc City representing the Executive Secretary. Counsel for the Secretary of Agriculture and Natural Resources moved for postponement of the hearing set for December 1, 1961. A similar motion also was filed by counsel for Jose T. Pastor. The trial court did not resolve said motions. On December 1, 1961, the trial court in the absence of the defendants allowed Francisco B. Echavez thru counsel to present his evidence ex-parte and on the same date, the trial court rendered its decision which declared as null and void the order of the Secretary of Agriculture and Natural Resources dated September 9, 1957 and the decision of the Executive Secretary dated August 20, 1959 and recognized the fishpond permit of the plaintiffs over the fishpond area. Separate motions for reconsideration and/or new trial filed by defendants were denied by the court, hence defendants appealed to the Court of Appeals. On March 8, 1969, respondent Court of Appeals promulgated its decision affirming in all respects the decision of the trial court with costs against the appellants. A motion for reconsideration having been filed but denied, they now come to Us to seek a review of the decision of the respondent Court of Appeals by way of certiorari.

Petitioners submit the following assignment of errors:

I

THE RESPONDENT COURT OF APPEALS AS WELL AS THE LOWER COURT ERRED IN CONCLUDING WITHOUT DUE REGARD TO THE ESTABLISHED FACTS THAT THE ORDER DATED 22 JULY 1953 OF THE DIRECTOR OF FISHERIES CANCELLING THE FISHPOND PERMIT OF JOSE T. PASTOR OVER THE FISHPOND IN QUESTION HAS ALREADY BECOME FINAL AND

EXECUTORY BASED ON AN ERRONEOUS APPLICATION OF THE RULES ON FILING AND SERVICE OF PLEADINGS.

II

THE RESPONDENT COURT OF APPEALS AS WELL AS THE LOWER COURT ERRED AND/OR COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO A POSITIVE EVASION OF LEGAL DUTY, AND/OR ACTED IN EXCESS OF JURISDICTION, IN CONCLUDING THAT THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES AND THE EXECUTIVE SECRETARY ACTED WITH GRAVE ABUSE OF DISCRETION IN THE EXERCISE OF THEIR RESPECTIVE POWERS AMOUNTING TO LACK OF JURISDICTION OVER THE CASE IN VIOLATION OF THE WELL-SETTLED RULE IN OUR JURISDICTION THAT THE ORDER OF THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES WHEN SUPPORTED BY SUBSTANTIAL EVIDENCE IS CONCLUSIVE UPON THE COURT OF JUSTICE.

III

THE RESPONDENT COURT OF APPEALS AS WELL AS THE LOWER COURT ERRED AND/OR COMMITTED A GRAVE ABUSE OF DISCRETION IN SUSTAINING THE LEGALITY AND PROPRIETY OF THE EX-PARTE HEARING HELD ON 1 DECEMBER 1961 WITHOUT NOTICE AND/OR WITHOUT GIVING THE PARTIES. PARTICULARLY THE HEREIN PETITIONERS, THEIR DAY IN COURT.

Considering the first assignment of error, the point at issue therein is whether or not the order dated July 22, 1953 of the Director of Fisheries cancelling the fishpond permit of Jose T. Pastor over the fishpond in question had already become final and, therefore, may no longer be reversed by the Secretary of Agriculture and Natural Resources and by the Executive Secretary, the latter acting by authority of the President. The order of cancellation reads:

"From the records of this case it appears that a fishpond application was filed by Jose T. Pastor on August 9, 1946 (Fp A. No. 936) for 5 hectares. It also appears that said application was referred to the Bureau of Forestry on August 10, 1946 for survey and certification as to the availability of the area covered by the same for fishpond purposes. On June 10, 1947, the area released by the Director of Forestry was 7.0 hectares. On June 30, 1947, the applicant was informed that the area he applied for was found to contain 7.0 hectares and that upon payment to this Office of the annual rental of P21.00 and cash bond deposit of P70.00, a fishpond permit will be issued in favor. Upon compliance with the said requirements, an ordinary fishpond permit was issued to him on August 1, 1947 to expire December 31, 1947. Subsequently, a renewal was made on November 18, 1948 to expire December 31, of the same year, upon payment of the required rental. On October 7, 1950, the attention of the permittee was called regarding the overdue rentals for 1949-50. Another letter was sent on March 27, 1951, requiring the permittee to pay the annual rentals for the years 1949-51 with surcharges. Another registered letter was sent to the permittee on June 28, 1951, requiring him to pay the rentals due. In spite of the several notifications sent to him, the permittee has failed to comply. This is a clear violation of Rule 12 of the fishpond permit granted him.

WHEREFORE, the ordinary fishpond permit issued in favor of Jose T. Pastor (F-463-C) is hereby cancelled and his cash bond deposit in the amount of P-70.00 hereby forfeited in favor of the government.

SO ORDERED.

Manila, Philippines July 22, 1953

(SGD.) D. V. VILLADOLID

Director of Fisheries"

The above order of cancellation was received by petitioner Jose T. Pastor on July 28, 1953. Thereupon, Pastor filed a motion for reconsideration of the said order of cancellation seeking reinstatement of his fishpond permit and sent the same by registered mail on August 27, 1953 posted at the Post Office, Congress of the Philippines, Manila. The Director of Fisheries received the motion for reconsideration on August 31, 1953.

On February 1, 1954, the Director of Fisheries issued another order stating that the order of cancellation dated July 22, 1953 had already become final "when the motion for reconsideration of the order was received beyond the reglementary period as provided for in the regulations" and that "the area therefore covered thereby as is now the one in question is made open to other applicants." Pertinent portion of the said Order reads:

"As far back as 1946, Jose T. Pastor was granted a fishpond permit over an area of about seven (7) hectares located in the barrio of San Juan, Palompon, Leyte. In view of his failure to introduce improvements thereon after more than six (6) months and unable to pay for the required rental thereof since 1949, the fishpond permit was ordered cancelled on July 22, 1953. The order of cancellation became final when the motion for reconsideration of the order was received beyond the reglementary period as provided for in the regulations. The area, therefore, covered thereby as is now the one in question is made open to other applicants." (Italics supplied)

"xxx xxx xxx

"WHEREFORE, the motion for reconsideration filed by Francisco B. Echavez is GRANTED; his application No. 5580 should be, as hereby it is, given DOE COURSE; and, the application No. 9708 of Anastacio Orais, CANCELLED; Provided, that the corresponding rentals since 1949 for the area of 8 hectares be paid by the former, Francisco B. Echavez." (Italics supplied)

According to the "Rules and Regulations Governing the Promulgation of Decisions and Orders by the Director of Fisheries and the filing of Appeal Therefrom to the Secretary of Agriculture and Natural Resources" contained in Fisheries Administrative Order No. 22, dated November 18, 1947 published in 44 O.G. 431 (Feb. 1948), it is provided that —

Sec. 3. — Appeals from the order or decision of the Director of Fisheries; motion for reconsideration. — An appeal shall lie from an order or decision of the Director of Fisheries to the Secretary of Agriculture and Natural Resources within a period of 30 days to be counted from the date the interested party received a copy thereof, unless a motion for reconsideration is filed within said period, in which case the appeal shall be made within 30 days from the receipt of the notice of the order or decision of the Director of Fisheries disposing of the motion for reconsideration. The notice of appeal may be delivered or sent to (1 )"The Director of Fisheries, or (2) the Secretary of Agriculture and Natural Resources. The date of filing the same with any of the said officials shall be considered as the date when the appeal is taken. In case the notice of appeal is sent directly to the Secretary of Agriculture and Natural Resources, the applicant shall serve the Director of Fisheries with a copy thereof.

Since Jose T. Pastor sent by registered mail his motion for reconsideration on August 27, 1953 (as shown and proved by the certification of the Postmaster, Post Office, Congress of the Philippines, Manila), hence this date of mailing must be considered as the date of the filing of the motion, and not the date of receipt by the Director of Fisheries on August 31, 1953. The motion for reconsideration is, therefore, seasonably filed within the thirty-day period within which the order sought to be reconsidered or appealed from becomes final, according to the above cited Rules and Regulations.

The said Rules and Regulations are in conformity with Rule 13, Section 1, Revised Rules of Court which provides that the date of the mailing of motions, pleadings, or any other papers or payments or deposits as shown by the

post office stamp on the envelope or the registry receipt shall be considered as the date of their filing, payment, or deposit in court. Accordingly, the Secretary of Agriculture and Natural Resources acted correctly when he issued the order dated September 9, 1957, the pertinent portion of which reads:

"A review of the records of the case shows that the motion of Pastor of August 21, 1953 seeking reconsideration of the Order of the Director of Fisheries dated July 22, 1953, cancelling his fishpond permit was filed within the reglementary period it appearing that the last day for filing said action was August 27, 1953, and that the same was filed on the very same day, as evidence by the certification of the Postmaster at the Congress of the Philippines, where the said motion was mailed, dated November 12, 1953, which is quoted hereunder as follows:

"TO WHOM IT MAY CONCERN:

This is to certify that the Registration Book of this Office shows that Registered Letter No. 6367 was mailed and stamped on August 27, 1953, addressed to the Director, Bureau of Fisheries, Manila. Send — JOSE T. PASTOR c/o Office of the Speaker, House of Representatives, Manila.

(SGD.) GRACIANO LACUESTA  
Postmaster, Congress"

Respondent Court of Appeals, therefore, erred in concluding that the order of cancellation dated July 22, 1953 of the Director of Fisheries had become final and executory.

The second assignment of error is also meritorious for it is well settled in our jurisdiction that the Secretary of Agriculture and Natural Resources may modify, adopt, reverse or set aside the order of the Director of Fisheries, for such power is provided by law in Sec. 79 (c) of the Revised Administrative Code which states:

"Section 79-C: Power of direction and supervision. — The department head shall have direct control, direction and supervision of all bureaus and offices under his jurisdiction and may, any provision .of existing law to the contrary notwithstanding, repeal or modify the decisions of the chiefs of said bureaus or offices when advisable in the public interest.

xxx xxx xxx"

Under Section 84 of the Revised Administrative Code, the Bureau of Fisheries is under the executive supervision of the Department of Agriculture and Natural Resources including matters concerning hunting, fisheries, sponges and other sea products, including the issuance of licenses therefore.

The Secretary of Agriculture and Natural Resources was therefore, well within his power to issue (1) the order dated December 5, 1955 granting the request for reinvestigation sought by petitioner Jose T. Pastor, (2) the order dated September 9, 1957 after the reinvestigation has been conducted, setting aside the order of his office dated October 12, 1955, reversing the decision of the Director of Fisheries dated February 1, 1954, and declaring in full force and effect Fishpond Permit No. F-463-C of Jose T. Pastor, and (3) the order dated July 21, 1958 modifying his order of September 9, 1957 in the sense that Jose T. Pastor was exempted from October of 1955 when he was deprived of the possession of the area in dispute up to the time he reacquired possession thereof.

We hold that the respondent Court of Appeals erred in concluding that the Secretary of Agriculture and Natural Resources had acted with grave abuse of discretion in the exercise of his power amounting to lack of jurisdiction over the case. The court's error is at once manifest in the light of well-entrenched doctrines and rulings of this Court that:

"It is a well-recognized principle that purely administrative and discretionary functions may not be interfered with by the courts. In general, courts have no supervising power over the proceedings and actions of the administrative departments of the government. This is generally true with respect to acts involving the exercise of judgment or discretion, and findings of fact.

Findings of fact by an administrative board or official, following a hearing, are binding upon the courts and will not be disturbed except where the board or official has gone beyond his statutory authority, exercised unconstitutional powers or clearly acted arbitrarily and without regard to his duty or with grave abuse of discretion." (Lacuestavs. Herrera, 62 SCRA 115, 116, L-33646, January 28, 1975)

"Findings of fact in executive decisions are final and conclusive and binding on the courts in the absence of fraud, collusion or grave abuse of discretion." (Mauleon vs. Court of Appeals, 66 SCRA 92, L-27762, August 7, 1975)

Matters involved in the grant, cancellation, reinstatement and revision of fishpond licenses and permits being vested under the executive supervision of the appropriate department head, the Secretary of Agriculture and Natural Resources in the present case, his discretion must be respected in the absence of clear showing of abuse. (Vera vs. Titong, Jr., 56 SCRA 40) We find none in the case at bar, neither arbitrariness, fraud, collusion or grave abuse of discretion.

With respect to the order of the Executive Secretary dated August 20, 1959 relieving Jose T. Pastor of the obligation to reimburse the value of improvements in the amount of P3,000.00 made by Francisco B. Echavez on the fishpond area, We hold that the order is illegal and arbitrary, and that the Executive Secretary committed grave abuse of discretion, for such an order would be enriching the successful permittee, Jose T. Pastor, at the expense of Echavez who is a possessor in good faith. It is the duty of Pastor to reimburse Echavez of the value of these improvements. To relieve him of this duty is contrary to and in violation of Art. 546 of the New Civil Code which provides:

"Art. 546. — Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof."

As to third assignment of error, it appears from the record that on December 1, 1961, respondents were allowed to adduce evidence ex parte, and on the same date, judgment was rendered by the lower court in their favor.

When the case was called for hearing on December 1, 1961, all the parties except the City Attorney of Ormoc City representing the Executive Secretary, were notified of this assignment. However, on November 20, 1961, 10 days before the hearing, counsel for the Secretary of Agriculture and Natural Resources and Jose T. Pastor moved for postponement of the hearing set for December 1, 1960 on the ground of previous court engagements prior to the receipt of the notice of hearing, which motion was received on November 25, 1961. The lower court did not resolve the said motion and instead allowed respondents to adduce evidence ex-parte, and on the same date rendered its decision.

It is not disputed that the lower court has the power and discretion to grant or deny motions for postponement but such power should not be abused particularly when the motion is filed seasonably and not on flimsy grounds as the motions filed by the defendants therein. The lower court should act one way or another on the motion for postponement and notify the parties of the resolution in order that the latter may properly take steps to protect

their rights. In the present case, when the lower court proceeded with the hearing on December 1, 1961 without notice to the counsel representing the Executive Secretary and without resolving the motion for postponement filed seasonably by the other defendants Jose T. Pastor, et. al. and the Secretary of Agriculture and Natural Resources, the latter were in effect denied of their day in court. We likewise find the third assignment of error impressed with merit.

IN VIEW OF THE FOREGOING, the decision of the respondent Court of Appeals is hereby reversed and set aside and another one entered declaring as legal and valid the order of the Secretary of Agriculture and Natural Resources dated September 9, 1957 in DANR Case No. 1192; annulling the decision of the Executive Secretary dated August 20, 1959; and ordering petitioners jointly and severally to reimburse respondent Francisco B. Echavez the sum of P3,000.00 as the value of improvements made by the latter on the fishpond area.

No pronouncement as to costs.

**SO ORDERED.**

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

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[1]First Division. Concepcion Jr., J., ponente, and Villamor, P.J., Mojica. concurring.

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