

**LEONARDO CUEVAS AND ROLANDO C. ROXAS, PETITIONERS, VS.
HON. GREGORIO G. PINEDA, AS JUDGE OF THE COURT OF FIRST
INSTANCE OF RIZAL, BRANCH XXI, PASIG, METRO MANILA,
NICANOR G. SAL...**

G.R. No. L-47617. August 29, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for certiorari and prohibition, with preliminary injunction, seeking to annul all the proceedings in Civil Case No. 27849, Court of First Instance of Rizal, Branch XXI, as well as the order granting the petition for the issuance of a writ of preliminary injunction and the writ of preliminary injunction itself issued by the respondent judge against the registration of the petitioners' titles to the disputed property.

After the filing of the petition, this Court issued a temporary restraining order enjoining the public respondents from further proceeding with the aforesaid civil case or from enforcing and/or carrying out the writ of preliminary injunction.

The private respondents filed a complaint with the respondent court for "Quieting Of Title With A Prayer For A Writ of Preliminary Injunction". They alleged, among other things, that they are the heirs of the late Celestina Igaya and, as such, are the owners of two adjoining parcels of land, located in Pasong Carga, Talon, Las Piñas, Metro Manila, declared under their names since 1924, as evidenced by Tax Declaration No. 8662, for Eulogio de la Cruz, and Tax Declaration No. 8663, for Manuel de la Cruz; that as owners of said lots, they have been in open, peaceful, and adverse possession thereof in the concept of owners; that sometime in October, 1977, they came to know that petitioners had caused the preparation of a table survey-plan of said lots based on Plan Psu-249497 in the name of a certain Julio Cancio; that this table survey-plan was prepared by petitioner Rolando C. Roxas, a geodetic engineer, for his co-petitioner Leonardo Cuevas; that under this table-survey, private respondents' two (2) lots were subdivided into three (3) lots, identified as lots 1, 2, and 3, Psu-04-006813; that on October 7, 1977, petitioner Cuevas filed with the District Land Office IV-1, Bureau of Lands, an Application For Free Patent No. (IV-1) 7941 for Lot 2, containing an area of 28,260 square meters and, also on October 7, 1977, petitioner Roxas filed in the same office an Application For Free Patent No. (IV-1) 7942 and 7942-A for the other two (2) lots; that District Land Officer, Claudio C. Batiles (one of the defendants in the complaint), hastily granted said applications, resulting in the issuance of Free Patent No. (IV-1) 001630 to petitioner Cuevas and Free Patent Nos. (IV-1) 001631 and (IV-1) 001632 to petitioner Roxas; that private respondents filed a protest with the Bureau of Lands against the issuance of said Free Patents, they being the owners and possessors of these lots and they also made representations with Mr. Batiles, to recall the Free Patents he issued to petitioners, and with the Register of Deeds for Metro Manila, District No. IV, to hold the registration of the certificates of title for said Free Patents, but were told that, unless enjoined by Court, the registration thereof would proceed.

The private respondents further alleged in their complaint that the petitioners were guilty of falsification and

fraudulent misrepresentation in filing said applications for Free Patents, because they (petitioners) had never been in possession of the lots in question and that they fully know that the private respondents are the true and absolute owners thereof; that the fact that petitioner Cuevas generously gave a substantial portion of these lots to his co-petitioner Roxas is an indication that Cuevas has no interest or right to said lots; that petitioners were threatening to enter the lots in question and that, unless petitioners are restrained, private respondents will suffer irreparable damages.

The private respondents prayed for the issuance of a writ of preliminary injunction, to declare null and void the aforementioned Free Patents and to declare them as the true and absolute owners of the subject lots.

Upon posting of the P10,000.00 bond required by the respondent court, a writ of preliminary injunction was issued, enjoining the petitioners from entering the lots and the Register of Deeds of Metro Manila District IV from registering the aforementioned Free Patents.

The petitioners filed their joint answer to the complaint, stating, among other things, lack of knowledge as to the ownership by private respondents of the lots mentioned therein; that they and their predecessors-in-interest have been in possession thereof since 1942; that the lots being claimed by private respondents are different from their lots; and that these lots are public land. They admitted the filing of the applications for Free Patents and the issuance of said patents to them and added that petitioner Cuevas has a right to dispose in favor of his co-petitioner Roxas of lots 1 and 3, because he (Cuevas) has an imperfect title thereto under the provisions of the Public Land Act; that their applications for Free Patents were approved in accordance with law; and that they will not enter private respondents' lots subject matter of the complaint.

Seventeen (17) days before the filing of the complaint with the respondent court, the respondents filed an administrative protest with the District Land Office, Bureau of Lands asking for the recall and cancellation of the disputed free patents. A hearing on the protest did not materialize because the respondent court on November 11, 1977 issued a writ of preliminary injunction.

The sole issue in this case is whether or not the respondent court has jurisdiction over the complaint of the private respondents in Civil Case No. 27849.

The petitioners contend that administrative remedies should first be exhausted before judicial remedies are commenced. Since the private respondents filed a "Protest" with the Bureau of Lands in D.L.O. Case No. (IV-1) 224 (77), it is error for them to institute a judicial action while the administrative case is still pending. The petitioners state that under Section 101 of the Public Land Act, only the Solicitor General, representing the Government, may file an action for the reversion of public lands fraudulently awarded or disposed of and that the issuance of the writ of preliminary injunction, without previous hearing, is a violation of Sections 5 and 7, Rule 58 of the Rules of Court, hence, there was grave abuse of discretion on the part of the respondent judge.

On the other hand, the private respondents maintain that the lots in question are private properties which they own and possess. According to them, they inherited the same from their mother and these have been declared under their names since 1928, as evidenced by Tax Declaration Nos. 8662 and 8663. As such owners, they have been in open, peaceful, and adverse possession of said lots.

The respondents have assumed inconsistent positions. After filing an administrative protest with the Bureau of Lands in a pending case, claiming that the disputed lots belong to them by ownership and possession, they question the jurisdiction which they had just invoked of that same agency. They claim that it is the courts and not the administrative tribunal that should settle the issue.

As far as the respondents are concerned, the land is not yet private. It belongs to the public domain because the

words "public lands" as used in subsection 6, Sec. 54 of Act No. 926, as amended, refer to lands the title to which continues to be in the Government up to the time of the entry of the final judgment of confirmation or decree involving them. (*Archbishop of Manila v. Director of Lands*, 27 Phil. 245)

The respondents implored the authority of the Bureau of Lands when they filed their administrative proceeding. They cannot, now, reject said authority by claiming that since the Bureau had already issued free patents, the land has become private and the agency had no jurisdiction at the time they filed their protest.

The mere possession of the land, allegedly since 1928 by the private respondents, does not by itself automatically divest the land of its public character. (*Marcopper Mining Corporation v. Manuel Garcia, et al.*, G.R. No. 55935, July 30, 1986). And if the petitioners were guilty of fraud in the procurement of their patents, the respondents should have pressed first that issue in the proceedings they filed with the Bureau of Lands for precisely that purpose. The free patents case has not been terminated. No original certificates of title may be issued as yet.

The exhaustion of administrative remedies doctrine is not a hard and fast rule.[1]

None of the exceptions to the doctrine is applicable to the case of the private respondents. It must be applied to them.

It is true that in the case of *Santiago, et al. v. Cruz, et al.*, (98 Phil. 168), this Court held:

xxx xxx xxx

"x x x While there are precedents which hold the view that before a litigant can bring a matter to court which has been passed upon by the Director of Lands it is necessary that he first exhaust all the remedies in the administrative branch of the government, we find no law expressly requiring such a prerequisite before the courts could acquire jurisdiction. That ruling would seem merely to apply to an action taken by an administrative official concerning public lands and not when it concerns private property. This is clearly implied in our decision in the case of *Eloy Miguel v. Anacleto M. Vda. de Reyes*, 93 Phil., 542, wherein we made a particular emphasis on the nature of the property involved. We there said that when the property involved is a piece of public land the remedy of the party aggrieved by the decision of the Director of Lands is to appeal to the Secretary of Agriculture and Natural Resources, and if he fails to pursue this remedy he cannot seek relief in the courts of justice. And the purpose behind the policy of requiring a party to first exhaust all administrative remedies before resorting to court would seem to be merely to provide 'an orderly procedure which favors a preliminary administrative sifting process, particularly, with respect to matters peculiarly within the competence of the administrative authority' (42 Am. Jur., 581)."

In the present case, the disputed property is the subject of applications for free patents. Both parties had already invoked the jurisdiction of the Bureau of Lands when the private respondents suddenly filed a case in court and moved to enjoin the agency from acting on the administrative case. Orderly procedure requires that the Bureau of Lands, on a matter within its competence and expertise, should first resolve the issues before it.

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is GRANTED. The order of the lower court dated November 10, 1977 is hereby SET ASIDE. The restraining order issued by this Court is made permanent.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

[1] This rule does not apply (1) where the issue is purely a legal one, and nothing of an administrative nature is to be and can be done (*Dauan v. Secretary of Agriculture and Natural Resources, et al.*, 19 SCRA 223; *Del Mar v.*

Philippine Veterans Administration, 51 SCRA 340; Bagatsing v. Ramirez, 74 SCRA 306; Aguilar v. Valencia, 40 SCRA 210; and Commissioner of Immigration v. Vamenta, 45 SCRA 342); (2) where insistence on its observance would result in nullification of the claim being asserted (Gravador v. Mamigo, 20 SCRA 742); (3) where the controverted act is patently illegal or was performed without jurisdiction or in excess of jurisdiction; (4) where the respondent is a department secretary, whose acts as an alter ego of the President bear the implied or assumed approval of the latter, unless actually disapproved by him; (5) where there are circumstances indicating the urgency of judicial intervention; (Gonzales v. Hechanova, 9 SCRA 230; Abaya v. Villegas, 18 SCRA 1034; Mitra v. Subido, 21 SCRA 127); and (6) when the rule does not provide a plain, speedy and adequate remedy (Cipriano v. Marcelino, 43 SCRA 291).

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