

**PEDRO LEE HONG HOK, SIMEON LEE HONG HOK, ROSITA LEE HONG HOK AND LEONCIO LEE HONG HOK, PETITIONERS, VS. ANIANO DAVID, THE HON. SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, TH...**

*G.R. No. L-30389. December 27, 1972*

Ponente: FERNANDO, J.

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**FERNANDO, J.:**

Petitioners[1] in this appeal by certiorari would have us reverse a decision of respondent Court of Appeals affirming a lower court judgment dismissing their complaint to have the Torrens Title[2] of respondent Aniano David declared null and void. What makes the task for petitioners quite difficult is that their factual support for their pretension to ownership of such disputed lot through accretion was rejected by respondent Court of Appeals. Without such underpinning, they must perforce rely on a legal theory, which, to put it mildly, is distinguished by unorthodoxy and is therefore far from persuasive. A grant by the government through the appropriate public officials[3] exercising the competence duly vested in them by law is not to be set at naught on the premise, unexpressed but implied, that land not otherwise passing into private ownership may not be disposed of by the state. Such an assumption is at war with settled principles of constitutional law. It cannot receive our assent. We affirm.

The decision of respondent Court of Appeals following that of the lower court makes clear that there is no legal justification for nullifying the right of respondent Aniano David to the disputed lot arising from the grant made in his favor by respondent officials. As noted in the decision under review, he "acquired lawful title thereto pursuant to his miscellaneous sales application in accordance with which an order of award and for issuance of a sales patent was made by the Director of Lands on June 18, 1958, covering Lot 2892 containing an area of 226 square meters, which is a portion of Lot 2863 of the Naga Cadastre. On the basis of the order of award of the Director of Lands the Undersecretary of Agriculture and Natural Resources issued on August 26, 1959, Miscellaneous Sales Patent No. V-1209 pursuant to which OCT No. 510 was issued by the Register of Deeds of Naga City to defendant-appellee Aniano David on October 21, 1959. According to the Stipulation of Facts, since the filing of the sales application of Aniano David and during all the proceedings in connection with said application, up to the actual issuance of the sales patent in his favor, the plaintiffs-appellants did not put up any opposition or adverse claim thereto. This is fatal to them because after the registration and issuance of the certificate and duplicate certificate of title based on a public land patent, the land covered thereby automatically comes under the operation of Republic Act 496 subject to all the safeguards provided therein \* \* \*. Under Section 38 of Act 496 any question concerning the validity of the certificate of title based on fraud should be raised within one year from the date of the issuance of the patent. Thereafter the certificate of title based thereon becomes indefeasible \* \* \*. In this case the land in question is not a private property as the Director of Lands and the Secretary of Agriculture and Natural Resources have always sustained the public character thereof for having been formed by reclamation. \* \* \* The only remedy therefore, available to the appellants is an action for reconveyance on the ground of fraud.

In this case we do not see any fraud committed by defendant-appellant Aniano David in applying for the purchase of the land involved through his Miscellaneous Sales Application No. MSA-V-26747, entered in the records of the Bureau of Lands [Miscellaneous Sales] Entry No. V-9033, because everything was done in the open. The notices regarding the auction sale of the land were published, the actual sale and award thereof to Aniano David were not clandestine but open and public official acts of an officer of the Government. The application was merely a renewal of his deceased wife's application, and the said deceased occupied the land since 1938."[4]

On such finding of facts, the attempt of petitioners to elicit a different conclusion is likely to be attended with frustration. The first error assigned predicated an accretion having taken place, notwithstanding its rejection by re-spondent Court of Appeals, would seek to disregard what was accepted by respondent Court as to how the disputed lot came into being, namely by reclamation. It does not therefore call for any further consideration. Neither of the other two errors imputed to respondent Court, as to its holding that authoritative doctrines preclude a party other than the government to dispute the validity of a grant and the recognition of the indefeasible character of a public land patent after one year, is possessed of merit. Consequently, as set forth at the outset, there is no justification for reversal.

1. More specifically, the shaft of criticism was let loose by petitioner aimed at this legal proposition set forth in the exhaustive opinion of then Justice Salvador Esguerra of the Court of Appeals, now a member of this Court: "There is, furthermore, a fatal defect of parties to this action. Only the Government, represented by the Director of Lands, or the Secretary of Agriculture and Natural Resources, can bring an action to cancel a void certificate of title issued pursuant to a void patent (Lucas vs. Durian, 102 Phil. 1157; Director of Lands vs. Heirs of Ciriaco Carlo, G.R. No. L-12485, July 31, 1959). This was not done by said officers but by private parties like the plaintiffs, who cannot claim that the patent and title issued for the land involved are void since they are not the registered owners thereof nor had they been declared as owners in the cadastral proceedings of Naga Cadastre after claiming it as their private property. The cases cited by appellants are not in point as they refer to private registered lands or public lands over which vested rights have been acquired but notwithstanding such fact the Land Department subsequently granted patents to public land applicants."[5] Petitioner ought to have known better. The above excerpt is invulnerable to attack. It is a restatement of a principle that dates back to *Maninang vs. Consolacion*,[6] a 1908 decision. As was there categorically stated: "The fact that the grant was made by the government is undisputed. Whether the grant was in conformity with the law or not is a question which the government may raise, but until it is raised by the government and set aside, the defendant can not question it. The legality of the grant is a question between the grantee and the government."[7] The above citation was repeated *ipsisimis verbis* in *Salazar vs. Court of Appeals*. [8] Bereft as petitioners were of the right of ownership in accordance with the findings of the Court of Appeals, they cannot, in the language of *Reyes vs. Rodriguez*, [9] "question the [title] legally issued." [10] The second assignment of error is thus disposed of.

2. As there are overtones indicative of skepticism, if not of outright rejection, of the well-known distinction in public law between the government authority possessed by the state which is appropriately embraced in the concept of sovereignty, and its capacity to own or acquire property, it is not inappropriate to pursue the matter further. The former comes under the heading of *imperium* and the latter of *dominium*. The use of this term is appropriate with reference to lands held by the state in its proprietary character. In such capacity, it may provide for the exploitation and use of lands and other natural resources, including their disposition, except as limited by the Constitution. Dean Pound did speak of the confusion that existed during the medieval era between such two concepts, but did note the existence of *res publicae* as a corollary to *dominium*. [11] As far as the Philippines was concerned, there was a recognition by Justice Holmes in *Cariño vs. Insular Government*, [12] a case of Philippine origin, that "Spain in its earlier decrees embodied the universal feudal theory that all lands were held from the Crown \* \* \*." [13] That was a manifestation of the concept of *juraregalia*, [14] which was adopted by the present

Constitution, ownership however being vested in the state as such rather than the head thereof. What was stated by Holmes served to confirm a much more extensive discussion of the matter in the leading case of *Valenton vs. Murciano*,<sup>[15]</sup> decided in 1904. One of the royal decrees cited was incorporated in the *Recopilacion de Leyes de las Indias*<sup>[16]</sup> in these words: "We having acquired full sovereignty over the Indies, and all lands, territories, and possessions not heretofore ceded away by our royal predecessors, or by us, or in our name, still pertaining to the royal crown and patrimony, it is our will that all lands which are held without proper and true deeds of grant be restored to us according as they belong to us, in order that after reserving before all what to us or to our viceroys, audiencias, and governors may seem necessary for public squares, ways, pastures, and commons in those places which are peopled, taking into consideration not only their present condition, but also their future and their probable increase, and after distributing to the natives what may be necessary for tillage and pasturage, confirming them in what they now have and giving them more if necessary, all the rest of said lands may remain free and unencumbered for us to dispose of as we may wish."<sup>[17]</sup>

It could therefore be affirmed in *Montano vs. Insular Government*<sup>[18]</sup> that "as to the unappropriated public lands constituting the public domain the sole power of legislation is vested in Congress, \* \* \*."<sup>[19]</sup> They continue to possess that character until severed therefrom by state grant.<sup>[20]</sup> Where, as in this case, it was found by the Court of Appeals that the disputed lot was the result of reclamation, its being correctly categorized as public land is undeniable.<sup>[21]</sup> What was held in *Heirs of Datu Pendatun vs. Director of Lands*<sup>[22]</sup> finds application. Thus: "There being no evidence whatever that the property in question was ever acquired by the applicants or their ancestors either by composition title from the Spanish Government or by possessory information title or by any other means for the acquisition of public lands, the property must be held to be public domain."<sup>[23]</sup> For it is well-settled "that no public land can be acquired by private persons without any grant, express or implied, from the government."<sup>[24]</sup> It is indispensable then that there be a showing of a title from the state or any other mode of acquisition recognized by law.<sup>[25]</sup> The most recent re-statement of the doctrine, found in an opinion of Justice J.B.L. Reyes, follows:<sup>[26]</sup> "The applicant, having failed to establish his right or title over the northern portion of Lot No. 463 involved in the present controversy, and there being no showing that the same has been acquired by any private person from the Government, either by purchase or by grant, the property is and remains part of the public domain."<sup>[27]</sup> To repeat, the second assignment of error is devoid of merit.

3. The last error assigned would take issue with this portion of the opinion of Justice Esguerra: "According to the Stipulation of Facts, since the filing of the sales application of Aniano David and during all the proceedings in connection with said application, up to the actual issuance of the sales patent in his favor, the plaintiffs-appellants did not put up any opposition or adverse claim thereto. This is fatal to them because after the registration and issuance of the certificate and duplicate certificate of title based on a public land patent, the land covered thereby automatically comes under the operation of Republic Act 496 subject to all the safeguards provided therein \* \* \*. Under Section 38 of Act 496 any question concerning the validity of the certificate of title based on fraud should be raised within one year from the date of the issuance of the patent. Thereafter the certificate of title based thereon becomes indefeasible \* \* \*."<sup>[28]</sup> Petitioners cannot reconcile themselves to the view that respondent David's title is impressed with the quality of indefeasibility. In thus manifesting such an attitude, they failed to accord deference to controlling precedents. As far back as 1919, in *Aquino vs. Director of Lands*,<sup>[29]</sup> Justice Malcolm, speaking for the Court, stated: "The proceedings under the Land Registration Law and under the provisions of Chapter VI of the Public Land Law are the same in that both are against the whole world, both take the nature of judicial proceedings, and for both the decree of registration issued is conclusive and final."<sup>[30]</sup> Such a view has been followed since then.<sup>[31]</sup> The latest case in point is *Cabacug vs. Lao*.<sup>[32]</sup> There is this revealing excerpt appearing in that decision: "It is said, and with reason, that a holder of a land acquired under a free patent is more favorably situated than that of an owner of registered property. Not only does a free patent have a force

and effect of a Torrens Title, but in addition the person to whom it is granted has likewise in his favor the right to repurchase within a period of five years." [33] It is quite apparent, therefore, that petitioners' stand is legally indefensible.

WHEREFORE, the decision of respondent Court of Appeals of January 31, 1969 and its resolution of March 14, 1969 are affirmed. With costs against petitioners-appellants.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Teehankee, Barredo, Makasiar, and Antonio, JJ., concur.

Esguerra, J., took no part.

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[1] Petitioners are Pedro Lee Hong Hok, Simeon Lee Hong Hok, Rosita Lee Hong Hok and Leoncio Lee Hong Hok.

[2] Original Certificate of Title No. 510 of the Registry of Naga City.

[3] The Secretary of Agriculture and Natural Resources and the Director of Lands were likewise named respondents.

[4] Decision, Appendix A, Brief for the Petitioners, 54-56.

[5] Ibid, 56-57.

[6] 12 Phil. 342.

[7] Ibid, 349.

[8] 87 Phil. 456 (1950).

[9] 62 Phil. 771 (1936).

[10] Ibid, 776.

[11] Cf. 3 Pound, Jurisprudence, 108-109 (1959).

**[12] 212 US 449 (1909).**

[13] Ibid, 458.

[14] Cf. Radin, Law Dictionary, 288 (1955).

[15] 3 Phil. 537.

[16] Law I, Title 12, Book 4.

[17] 3 Phil. 537, 542-543.

[18] 12 Phil. 572 (1909).

[19] Ibid, 579. Cf. Insular Government vs. Aldecoa & Co., 19 Phil. 505 (1911); Ankron vs. Government of the Philippine Islands, 40 Phil. 10 (1919).

[20] Cf. Archbishop of Manila vs. Director of Lands, 27 Phil. 245 (1914).

[21] Cf. Aragon vs. Insular Government, 19 Phil. 223 (1911); Francisco vs. Government, 28 Phil. 505 (1914); Government vs. Cabangis, 53 Phil. 112 (1929).

[22] 59 Phil. 600 (1934).

[23] Ibid, 603.

[24] Padilla vs. Reyes, 60 Phil. 967, 969 (1934).

[25] Cf. Reyes vs. Rodriguez, 62 Phil. 771 (1936).

[26] Director of Lands vs. Court of Appeals, L-29575, April 30, 1971, 38 SCRA 634.

[27] Ibid, 639.

[28] Decision, Appendix A to Brief for Petitioners, 54-55.

[29] 39 Phil. 850 (1919).

[30] Ibid, 858.

[31] Cf. Manalo vs. Lukban, 48 Phil. 973, (1924); El Hogar Filipino vs. Olviga, 60 Phil. 17 (1934); Republic of the Philippines vs. Abacite, L-15415, April 26, 1961, 1 SCRA 1076; Panimdim vs. Director of Lands, L-19731, July 31, 1964, 11 SCRA 628; Director of Lands vs. The Court of Appeals, L-17696, May 19, 1966, 17 SCRA 71; Antonio vs. Barroga, L-23769, April 29, 1968, 23 SCRA 357; Dela Cruz vs. Reano, L-29792, August 31, 1970, 34 SCRA 585.

[32] L-27036, November 26, 1970, 36 SCRA 92.

[33] Ibid, 96.

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