

DAWALING SUMAIL, PETITIONER, VS. HONORABLE JUDGE OF THE COURT OF FIRST INSTANCE OF COTABATO, THE DIRECTOR OF LANDS AND MELQUIADES GEPULIANO, RESPONDENTS.

G.R. No. L-8278. April 30, 1955

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The land involved in the present case of certiorari is lot No. 3633 of the cadastral survey of Dulawan, Cotabato. The facts of the case as may be gathered from the pleadings are as follows. Before the court where cadastral proceedings were had over the cadastre of Dulawan, Cotabato, three separate applicants claimed lot No. 3633 as their private property. The Bureau of Lands and Melquiades Gepuliano claimed it as public land. On June 9, 1941, said lot was declared public land by the cadastral court.

On January 5, 1940, herein respondent Gepuliano had filed a free patent application for said lot No. 3633. His application was approved on August 10, 1943 and Free Patent No. V-459 was finally issued to him on September 26, 1949, which Patent was registered in the office of the Register of Deeds in June, 1950, which office thereafter issued to him Original Certificate of Title V-23.

On June 3, 1952, Gepuliano filed Civil Case No. 413 in the Court of First Instance of Cotabato against petitioner Dawaling Sumail, alleging among other things that he was the owner of the lot in question by virtue of a Free Patent and an Original Certificate of Title; that he had been in possession of the land since 1939 continuously, publicly, and adversely up to June, 1949, when Sumail by means of force, threats and intimidation entered the parcel and divested him of possession; that several demands had been made for the surrender of the possession of the land which demands defendant had rejected. The complaint prayed that the defendant be ordered to vacate the premises and to pay damages and costs.

On June 21, 1952, defendant Sumail answered the complaint alleging that he and his predecessor-in-interest had been in continuous possession of the land since shortly before the end of the Spanish regime, and that the Certificate of Title of Gepuliano had been obtained fraudulently, and he asked that the complaint be dismissed, with costs.

On July 27, 1952, and said to be intended as counter-complaint to Civil Case No. 413, Sumail, defendant in said case, filed Civil Case No. 420 in the same court against Gepuliano and the Director of Lands for the purpose of cancelling Certificate of Title V-23 covering lot 3633, alleging that Gepuliano thru fraud and misrepresentation had filed with the Bureau of Lands a falsified application for free patent for the lot, stating in his application that the parcel was not occupied or claimed by any other person and that he had entered upon it and introduced improvements thereon, when as a matter of fact, said applicant Gepuliano had never occupied the land nor introduced improvements thereon, and that it was he (Sumail) who had been in possession since shortly before, the end of the Spanish regime; and that the Director of Lands through mistake or inadvertence had approved the application and later issued Free Patent V-459 by virtue of which Certificate of Title V-23 was issued in the name

of Gepuliano. Sumail asked that the original certificate of title be cancelled; that the Director of Lands give due course to Sumail's free patent application over said parcel and that Gepuliano pay damages, including attorney's fees.

Answering the complaint in Civil Case No. 420 the Director of Lands stated that lot No. 3633 had been declared public land by the Court of First Instance of Cotabato that Gepuliano had filed a free patent application for it, which application was given due course and later approved and still later the corresponding Patent was issued on the basis of which Original Certificate of Title V-23 was issued in the name of Gepuliano. The Director of Lands asked that the complaint be dismissed as to him. Gepuliano also answered the complaint of Sumail, claiming that the latter took possession of the lot only in July, 1949 and he prayed that the complaint be also dismissed as against him.

By agreement of the parties the two civil cases, Nos. 413 and 420 were ordered to be tried jointly. When called for joint hearing on March 25, 1954, the Director of Lands filed a motion to dismiss Civil Case No. 420 on the ground that the court had no jurisdiction over the subject matter of the complaint; that the complaint of Sumail was premature and that he (Sumail) had no legal personality to institute the action. The Director of Lands contended that the complaint of Sumail called for the cancellation of a free patent issued by the Director of Lands over a parcel of public land and that the court had no jurisdiction over the subject matter because under the Public Land Act, the Director of Lands had executive control over the concession or disposition of the lands of the public domain, and that his findings as to questions of fact shall be conclusive when approved by the Secretary of the Department; that Sumail had filed a protest against the free patent application of Gepuliano and the issuance of the patent to him, and that said protest had been ordered Investigated by the corresponding District Land Officers who had not yet filed his report, and that until said report is filed and the Director of Lands has made a decision on the protest and until Sumail, if dissatisfied with the said decision has exhausted his remedy such as appeal to the Secretary of the Department, it was premature for him to file an action in court; that under the Public Land Act only the Solicitor-General or his representative is authorized to file reversion proceedings and that consequently, Sumail had no personality to file the said action which would, if successful, result in the reversion of the parcel in question to the public domain; and that even if such reversion took place, Sumail would not get the land any way because it would still remain for the Director of Lands to determine who of the public land applicants is entitled to the same.

Acting upon this motion to dismiss in Civil Case No. 420, the Court of First Instance of Cotabato issued an order on May 26, 1954, stating that lot No. 3633 was public land; that it was applied for free patent by defendant Gepuliano and the corresponding Patent had been issued to him; that it does not appear from the complaint of Sumail that he had exhausted all the remedies available to him such as an appeal to the Secretary of the Department, and that the courts will not interfere with the administration by the Bureau of Lands of the public domain, and that consequently, the complaint should be dismissed, as in fact it was ordered dismissed. Sumail moved for the reconsideration of the order of dismissal. By order of July 27, 1954 said motion for reconsideration was denied. To annul the order of dismissal as well as the order denying the motion to reconsider the said order, the present petition for certiorari was filed.

We agree with the Director of Lands and the trial court that the latter had no jurisdiction to entertain Civil Case No. 420 which was filed for the purpose of cancelling the Patent issued by the Director of Lands on lot No. 3633 and also for the cancellation of the Original Certificate of Title V-23 issued to Gepuliano on the basis of his free patent. Under section 122 of Act No. 496 known as the Land Registration Act, when any public lands in the Philippines are alienated, granted, or conveyed to persons or public or private corporations, the same shall be brought forthwith under the operation of the said Act and shall become registered lands and that the instrument of

conveyance in the form of a Patent, before its delivery to the grantee shall be filed with the Register of Deeds for registration, and that once registered therein a certificate of title shall be issued as in other cases of registered land. That is the reason why an original certificate of title was issued to Gepuliano sometime in 1950 on the basis of his free patent issued in 1949.

In ordinary registration proceedings involving private lands, courts may reopen proceedings already closed by final decision or decree, only when application for review is filed by the party aggrieved within one year from the issuance of the decree of registration. Here, there was no decree of registration because instead of an application for registration under the Land Registration Act Gepuliano applied for free patent under the Public Land Act. Assuming that even in bringing public land grants under the Land Registration Law, there is a period of one year for review in cases of fraud, how shall that period of one year be computed? For all practical purposes we might regard the date of the issuance of the patent as corresponding to the date of the issuance of the decree in ordinary registration cases, because the decree finally awards the land applied for registration to the party entitled to it, and the patent issued by the Director of Lands equally and finally grants, awards, and conveys the land applied for to the applicant. The purpose and effect of both decree and patent is the same. Now, further assuming that Civil Case No. 420 of the Court of First Instance of Cotabato filed by Sumail was intended as a petition for review of the public land grant and conveyance to Gepuliano, on the ground of fraud, was it filed within the period of one year? The answer is in the negative. As already stated, free patent No. V-459 was issued in the name of Gepuliano on September 26, 1949, while Civil Case No. 420 was filed in court only on July 21, 1952, or almost three years after the issuance of the free patent. It is, therefore, clear that the trial court no longer had jurisdiction to entertain the complaint in Civil Case No. 420 for the reasons already stated, but not as contended by the Director of Lands that it involved public land, over which he had exclusive and executive control, because once the patent was granted and the corresponding certificate of title was issued, the land ceased to be part of the public domain and became private property over which the Director of Lands has neither control nor jurisdiction.

But even if we regard the action of Sumail in Civil Case No. 420, as an action for reversion to the Government of the lot in litigation, under the provisions of sections 91 and 124 of the Public Land Act, which provide for the annulment of patents and titles previously issued, and the reversion of the lands covered by them to the state, may he bring said action? Section 101 of the same Act, says no. We reproduce said section:

"All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth (Republic) of the Philippines."

Under section 101 above reproduced, only the Solicitor General or the officer acting in his stead may bring the action for reversion. Consequently, Sumail may not bring such action or any action which would have the effect of cancelling a free patent and the corresponding certificate of title issued on the basis thereof, with the result that the land covered thereby will again form part of the public domain. Furthermore, there is another reason for withholding legal personality from Sumail. He does not claim the land to be his private property. In fact, by his application for a free patent, he had formally acknowledged and recognized the land to be a part of the public domain; this, aside from the declaration made by the cadastral court that lot 3633 was public land. Consequently, even if the parcel were declared reverted to the public domain, Sumail does not automatically become owner thereof. He is a mere public land applicant like others who might apply for the same.

It may not be out of place to state here that the claim of Sumail that he and his predecessor-in-interest had been in possession of the lot since shortly before the end of the Spanish regime, would appear to be unfounded. According to the allegations in the answer of respondent Gepuliano, not denied by Sumail, before the cadastral court of Cotabato Sumail never claimed lot 3633 despite the fact that he must have been aware of the cadastral survey

thereof and the legal notices issued before hearing. As already stated, the only claimants of said lot before said cadastral court were Kalid Dadika, Aurelio Tangente and Hadji Datu Samama Ampatuan who claimed it as their private property, while the Director of Lands and Gepuliano claimed it as a public land. This must have been between 1940 and 1941 because it was on June 9, 1941 that the cadastral court declared said lot public land. And, as already stated, Gepuliano had filed his free patent application as early as January 8, 1940, and claimed that he had occupied it since March, 1939.

In view of the foregoing, finding no error or abuse of excess of jurisdiction by the respondent Judge of the lower court in issuing the order of dismissal as well as the order denying the motion for reconsideration thereof, the present petition for certiorari is hereby denied, with costs.

Pablo, Acting C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

Petition denied.

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