

FIGURADO O. PLAZA, PETITIONER, VS. HON. JUAN C. TUVERA, HON. JOSE J. LEIDO, JR., HON. RAMON N. CASANOVA, AND ERNESTO C. REYES, RESPONDENTS.

G.R. No. L-42782. September 29, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

These two cases involve a 900 sq. m. parcel of public land which the petitioner had purchased from Luis Peggy on September 14, 1966 (thinking it belonged to the latter) but which the actual occupant, respondent Ernesto Reyes, had applied to purchase from the Government under a miscellaneous sales application filed by him in the Bureau of Lands in September, 1966.

On November 18, 1966, Plaza filed an action (Civil Case No. 1128 of the Court of First Instance of Agusan Del Norte in Butuan City) to recover the land from Reyes. The trial court rendered judgment on December 5, 1973, ordering Reyes to vacate the land, to pay Plaza P300 as monthly rental beginning October 1966 with legal interest, until the property is actually vacated, plus P5,000 as moral damages, and P5,000 as attorneys fees.

However, in the administrative proceedings in the Bureau of Lands, where Plaza opposed Reyes' miscellaneous sales application ("Ernesto C. Reyes, applicant-appellant vs. Figurado O. Plaza, claimant?appellee [MSA (VII-a) 171]; DANR Case No. 3546"), the Regional Land Officer of Region No. VII, the Director of Lands and the Secretary of Agriculture and Natural Resources unanimously found that the subject land is public land; and that Reyes was only a tenant of the petitioner whose preferential right to purchase said land the aforementioned officials recognized.

However, upon Reyes' appeal to the Office of the President, the latter reversed on February 11, 1975 (OP Decision No. 1328, s. 1975), the ruling of the Director of Lands and the Secretary of Agriculture and Natural Resources that Reyes was a mere tenant of the land.

Plaza filed a petition for certiorari, prohibition and mandamus in this Court (G. R. No. L--42782) to annul the decision of the Office of the President for grave abuse of discretion in totally disregarding the decision of the Court of First Instance of Agusan Del Norte in Civil Case No. 1128 finding Reyes to be a mere lessee of the land in question.

On the other hand, Reyes appealed the decision in Civil Case No. 1128 of the Court of First Instance of Agusan Del Norte to the Court of Appeals (CA-G.R. No. 56694-R, entitled "Figurado O. Plaza, plaintiff-appellee versus Ernesto C. Reyes, defendant?appellant"). The Court of Appeals deferred to the presidential decision in favor of Reyes in the administrative case and dismissed Plaza's action. The dispositive part of its decision dated September 6, 1977 reads as follows:

"IN VIEW WHEREOF, this Court is constrained to sustain Error 5, and to declare that by failure of appellee to institute proceedings to annul the administrative decision in favor of Reyes, and that administrative decision

having acquired the character of finality binding upon Plaza, - his present case must have to be as it is hereby declared moot and academic, and is hereby dismissed, no more pronouncement as to costs." (pp. 29-30, Rollo, G.R. No. L-47936.)

The Court of Appeals made the following observations:

"x x x be it noted that Reyes has annexed to his brief copies of the decision and the resolution denying reconsideration and declaring the administrative decision already final: - Now, if this be the case, yes, the point of Plaza assailing that administrative decision, page[s] 40-41, brief of appellee, - in the mind of this court, - absent any certiorari which has not been filed to annul it, admitted the fact that that administrative decision has become final, - must mean that Plaza is already bound by that result, it was binding against him, the question of who of the protagonists was entitled to the sale of the land from the government has been settled, it was not appellee, Plaza, but appellant Reyes, and the necessary implication must have to be that Reyes should not be disturbed in his possession, - this being the true situation, this present case has become academic; if only to add something more, this Court might as well mention that the position of Plaza had been that the land he bought was described in his purchase as Lot 423, a private land, but the land that he claimed now, and sought to prove was what he had bought was not Lot 423 but Lot 460, a clearly public land." (p. 29, Rollo, Ibid.)

In due time, Plaza filed a petition for review in this Court under Rule 45 of the Rules of Court (G.R. No. L-47936). As the subject matter, the private parties, and the issues in this petition for review are the same as those in the certiorari case (G.R. No. L-42782), the two cases were consolidated.

The legal question presented by this petition for certiorari, prohibition, and mandamus (G.R. No. L-42782) is whether the Office of the President may modify, revoke or totally disregard the decision of the Court of First Instance in the accion publiciana filed by Plaza against Reyes (Civil Case No. 1128) which was already pending appeal in the Court of Appeals when the Office of the President issued its assailed decision in favor of Reyes.

Petitioner argues that the Office of the President has no authority to reverse, set aside, or nullify a decision of a court of first instance on a matter that is within the court's jurisdiction, or to render moot and academic an appeal pending in the Court of Appeals.

That contention is not well taken.

The land in question is public land. Its administration, disposition and alienation is lodged in the Director of Lands subject to the control of the Secretary of Agriculture and Natural Resources as alter ego of the President (Secs. 3, 4 and 5, Commonwealth Act 141). The President, through the Executive Secretary, may review, affirm, reverse, or modify the orders and decisions of the Secretary of Agriculture and Natural Resources (*Extensive Enterprises Corp. vs. Sarbio & Co., Inc., et al.*, 17 SCRA 41).

The disposition of public land is an executive, not a judicial, function. The decision of the court of first instance in the action for recovery of possession filed by Plaza against Reyes did not bind nor bar the Office of the President from exercising its power as the final authority in the disposition of lands of the public domain. For one thing, the decision of the court of first instance was not yet final when the Office of the President decided the miscellaneous sales applications of Reyes and Plaza. Furthermore, the administrative case was instituted ahead of Civil Case No. 1128. Reyes filed his Miscellaneous Sales Application No. 460-A on September 28, 1966 while Civil Case 1128 was filed by Plaza on November 18, 1966 only. Plaza should have exhausted his administrative remedies before going to court. Having failed to do so, his recourse to the courts was premature. The dismissal of his complaint by the Court of Appeals was proper (*Cruz vs. Del Rosario*, 9 SCRA 755; *Gonzales vs. Secretary of Education*, 5 SCRA 657).

WHEREFORE, in view of the foregoing, both petitions are dismissed for lack of merit, with costs against the

petitioner in both instances.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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