

HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES, AS SUCCESSOR OF THE PHILIPPINE ALIEN PROPERTY ADMINISTRATOR, PLAINTIFF AND APPELLANT, VS. MACARIO BAUTISTA, DEFENDA...*G.R. No. L-6801. September 28, 1954*

Ponente: BAUTISTA ANGELO, J.

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On October 6, 1947, the Philippine Alien Property Administrator, hereinafter referred to as Administrator, issued vesting order No. P-394, which was amended on February 2, and July 14, 1949, vesting in himself, among others, one-half undivided interest in the following properties: (a) five parcel of land situate in the city of Baguio and one parcel situate in San Clemente, Tarlac; (b) personal properties consisting of furniture and household equipments; (c) the sum of P5,156.83 representing balance of a saving account with the People's Bank & Trust Company, Baguio branch; (d) the sum of P1,867.50 representing rents and income of the lands mentioned above; and (e) the net proceeds of an insurance policy in the amount of P1,451.81.

The vesting was made upon the claim that the one-half undivided interest was owned by Carlos Teraoka and Marie Dolores Teraoka who were found to be nationals of Japan, an enemy country. After the vesting, the Administrator demanded from their grandfather, Macario Bautista, who was in possession of the aforementioned properties, the delivery to him of the possession of one-half thereof. Macario Bautista refused to comply with the demand claiming to be the sole owner of the aforementioned properties having inherited them as the only surviving heir of their former owners who were already dead, including Carlos Teraoka and Marie Dolores. Because of such refusal, the Administrator filed an action in the Court of First Instance of Mountain Province praying for the partition of the properties and the delivery of one-half thereof to the plaintiff. As one of the parcels involved was sold to one Antonio Baluga, the latter was included in the complaint as party defendant.

The Republic of the Philippines moved to intervene as party plaintiff in view of the provision of the law to the effect that whatever property may be vested in the Administrator would be eventually transferred to the Republic. This motion was granted, and the Republic of the Philippines adopted as its own the complaint filed by the Administrator.

Defendant Macario Bautista set up as special defense that he is the sole owner of the properties in question with the exception of the lot sold to his co-defendant Antonio Baluga; that as such owner he has already spent a considerable amount on said properties in the form of taxes, repairs, fines, penalties, and the like; that Muneo Teraoka was not an enemy national but a naturalized Filipino citizen; that the children of Muneo Teraoka, including Carlos and Marie Dolores, were Filipino citizens; that the Philippine Alien Property Administrator cannot vest properties not enemy-owned, such as the properties in question and, therefore, he has no personality to bring the present action for partition, for such right pertains only to the heirs of the former owners of said properties who are the only ones who can maintain an action for partition as co-owners thereof pro-indiviso; and

that, assuming that Carlos and Marie Dolores are Japanese nationals, the present action for partition is premature, since said children are still minors and as such have the right to elect Philippine citizenship upon reaching the age of majority in accordance with the Philippine constitution.

In reply to the claim that the Administrator had no authority to vest the interest of Carlos and Marie Dolores because they are not Japanese nationals, the Administrator stated that the determination of the character of the properties vested and the nationality of their owners by the Administrator under the law is conclusive and not subject to judicial review; that if the vesting is erroneous, the remedy of the owners is to file a claim under section 32, or a suit under section 9 (a), of the Trading with the Enemy Act; and that the nationality of Carlos and Marie Dolores cannot be passed upon in the present action.

After hearing, the court rendered judgment dismissing the complaint, the court holding in effect that plaintiff failed to prove that Carlos and Marie Dolores are Japanese nationals; that the evidence in fact shows that they are Filipino citizens; and that the vesting of their interest in the property in question was erroneous and, therefore, the vesting order issued by the plaintiff in connection with said interest is illegal and did not vest ownership thereof in the plaintiff. As to Antonio Baluga, the court found that he was an innocent purchaser whose title to the property cannot be reviewed.

From this judgment, the Administrator and the Republic of the Philippines have appealed to the Court of Appeals. After the briefs had been submitted within the reglementary period, the parties took steps to have the case transferred to this court upon the plea that the issues raised involve purely questions of law, and this move was granted by the court. In the meantime, the Philippine Alien Property Administration was terminated by Executive Order No. 10254 of the President of the United States, effective June 29, 1951, and all its rights, powers, duties, and functions, as well as the properties' vested by it, were transferred to the Attorney General of the United States, and so, on motion of the Attorney General of the United States, the lower court, in its order of August 13, 1951, ordered the substitution of this official in lieu of the Philippine Alien Property Administrator.

Inasmuch as this case was transferred to this court upon the plea that the only issues raised by the parties involve purely questions of law, and hence facts as found by the lower court in its decision are deemed admitted, for the purposes of the issues raised, we would quote hereunder the pertinent portion of the decision wherein said facts are outlined:

"In 1924, one Muneo Teraoka, also known as Charles M. Teraoka, then a Japanese subject, married a native Filipino named Antonina Bautista. Out of this wedlock six children were born, namely, Victor, Sixto, Carlos, Marie Dolores, Catalina, and Eduardo. The couple during their married life acquired all the properties described in the complaint. On August 21, 1941, Muneo Teraoka died, survived by his widow Antonina Bautista de Teraoka and his six children by her, above named. An intestate proceedings was instituted in the Court of First Instance of Baguio, as a result of which the real properties described in the complaint were divided between the widow Antonina Bautista on one hand, and the six surviving children on the other, giving to the widow three parcels and to the six children in common another three (see paragraphs 5 and 6 of the original complaint). The personal properties enumerated in the complaint, as well as the cash and the insurance policy of Antonina Bautista were not divided or touched in the said intestate proceedings. Later on in December, 1944, Sixto Teraoka died single at the age of 17 without leaving any issue, while Victor Teraoka was taken by the Japanese soldiers on suspicion of being spy and has never been heard of since then. He was presumably killed by the Japanese soldiers. Victor Teraoka left no issue also and he died single, at the age of about 19 years. On April 24, 1945, during the bombing of the City of Baguio by the American forces of liberation, Antonina Bautista and two of her children, Catalina and Eduardo, were hit by bomb and died, Antonina Bautista died instantly, while Catalina and Eduardo died later on the same day. After liberation and after the surrender of Japan to the American forces, Carlos Teraoka and Marie Dolores Teraoka, the only living members of the ill-fated Teraoka family, these two then being minors, as they are still minors, being 19 and 16

years old, respectively, were taken by the American army to Japan. Once in Japan the two went to stay with their grandfather, father of Muneo Teraoka. They are still in Japan up to date living with their paternal uncle, their grandfather having died. The evidence is clear and greatly preponderant that these two brother and sister, Carlos and Marie Dolores Teraoka, did not want to go to Japan but they were powerless to resist, of too tender age to protest. They first sought their nearest relatives once they were landed in Japan. After liberation also, or to be more exact, on July 18, 1945, the Enemy Property Custodian of the U. S. Army took into his custody the properties described in the complaint on suspicion that these properties were tainted with enemy interest. Then defendant Macario Bautista, father of Antonina Bautista, believing that the entire Teraoka family had already died, and being the nearest surviving or relative of the Teraoka, claimed the said properties from the Enemy Property Custodian. The latter, ignorant of the existence in Japan of two of the Teraoka, children, granted the petition of Macario Bautista and released the said properties. Macario Bautista, then, by an affidavit of adjudication, succeeded in securing the cancellation of the certificates of title in his own name. Once he had the certificates of title in his name, free of any lien or encumbrance, Macario Bautista sold one lot (Lot No. 113 MM, now covered by Transfer Certificate of Title No. T-331, in the name of Antonio Baluga, in favor of third party defendant Eulalio D. Rosete who, in turn, sold it to defendant Antonio Baluga, hence the said transfer Certificate of Title No. T-331 is now in his name (Exh. 3-Baluga). On October 1946, the office of the Philippine Alien Property Administration was established in the Philippines. This new office assumed and took over the functions and duties of the defunct Enemy Property Custodian of the United States Army. This new office learned that, contrary to the assertion of Macario Bautista that the entire Teraoka family had died already, two of the Teraoka children, Carlos and Marie Dolores, are very much alive and are living in Japan. Then the Philippine Alien Property Administrator, on the supposition that Carlos Teraoka and Marie Dolores Teraoka are Japanese nationals, vested and took title to the portion of the said properties belonging, by right of succession, to said Carlos and Marie Dolores Teraoka, by virtue of Vesting Order No. P-394, issued on February 2, 1949, which was later supplemented and amended. The above facts have conclusively established by the evidence. In fact, most of them are directly admitted or not contradicted by any of the parties. Plaintiff filed this case of judicial partition on the theory that the vesting order issued by plaintiff himself made him co-owner of the said property in common with the defendants Macario Bautista and Antonio Baluga,"

It is a well-settled rule that the Congress of the United States, in time of war, may authorize and provide for the seizure and sequestration, through executive channels, of properties believed to be enemy-owned, if adequate provision be made for a return in case of mistake. (*Stoehr vs. Wallace*, 255 U.S. 239, 65 L. ed, 604, 612; *Central Union Trust Co. vs. Garvan*, 254 U. S. 554, 65 L. ed., 403.) Congress did this with the approval of the Trading with the Enemy Act, which was originally enacted on October 6, 1917, authorizing the President of the United States, or the officer or agency that may be designated by him as his representative, to determine the enemy ownership of the properties to be seized. The agency so designated was the Alien Property Custodian. Section 7 (c) of said act, as amended, referring more, specially to the scope of the authority granted to the President, provides as follows: "If the President shall so require any money or other property * * * owning or belonging to, or held for, by or on account of, or on behalf of, or for the benefit of, an enemy * * * which the President after investigation shall determine is so owning or so belonging or is so held, shall be conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian, or the same may be seized by the Alien Property Custodian" (*Italics supplied*).

On July 3, 1946, the Congress of the United States approved the Philippine Property Act of 1946 providing in section 3 thereof that the Trading with the Enemy Act, as amended, shall continue in force in the Philippines after July 4, 1946, and adding that "all powers and authority conferred upon the President of the United States or the Alien Property Custodian by the terms of said Trading with the Enemy Act, as amended, with respect to the Philippines shall continue thereafter to be exercised by the President of the United States or such other officer or agency as he may designate." Inasmuch as the Philippine Property Act of 1946 was approved only one day before the granting of Philippine independence, the immediate designation of the Alien Property Custodian of the United

States, who was already the designee of the President, to continue acting thereafter, was considered most expedient to avoid disrupting the continuity of the vesting program (Executive Order No. 9747). This was done without prejudice however of establishing an independent agency which may take charge of the administration and control of enemy properties in the Philippines. So on October 14, 1946, the Philippine Alien Property Administration was formally established having as head an Administrator to be appointed by the President of the United States, and to this Administrator were transferred the duties and functions of the Custodian with respect to enemy properties located in the Philippines (Executive Orders Nos. 9789 and 9818). During the pendency of the present action, the Philippine Alien Property Administration was in turn terminated effective June 29, 1951 by Executive Order No. 10254 of the President of the United States, and the functions and duties of the Philippine Alien Property Administrator were transferred to the Attorney General of the United States.

It was in the exercise of the powers vested in him by the Trading with the Enemy Act, the Philippine Property Act of 1946, and Executive Order No. 9818 that the Philippine Alien Property Administrator vested in himself the properties in question to be held, administered, or otherwise dealt with in the interest and for the benefit of the United States. Vesting Order No. P-394, which was issued in vesting said properties, recites that, after proper investigation, the Administrator had found that Carlos and Marie Dolores Teraoka were nationals of Japan and that the properties were owned by said nationals.

It is now contended by the Philippine Alien Property Administrator that, as the immediate effect of the vesting order, from the time the properties were vested, title to them passed to the United States as "completely as if by conveyance, transfer or assignment." (Commercial Trust Company vs. Miller, 262, U. S. 51, 57, 67 L. ed., 858, 861.) Being the owner, he contends, the Administrator may obtain possession of the properties vested, or "may either seize said properties or proceed judicially to compel compliance with his demand for possession." But, in the present case, he avers—although the Administrator could have seized the properties vested by him, under section 7(c) of the Trading with the Enemy Act, he preferred to file suit because "it was more orderly and decent to obtain possession by the aid of the court than to seize them by violence and the strong hand." Hence, the Administrator preferred to institute the present action under section 3 of the Philippine Property Act of 1946 the pertinent portion of which reads:

" x x x Provided further, that the courts of first instance of the Republic of the Philippines are hereby given jurisdiction to make and enter all such rules as to notice or otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce any orders, rules, and regulations issued by the President of the United States, the Alien Property Custodian, or such officer or agency designated by the President of the United States pursuant to the Trading with the Enemy Act, as amended, with such right of appeal therefrom as may be provided by law."

But, can the Philippine Alien Property Administrator now invoke the Philippine Property Act of 1946 to enforce his vesting order or to compel compliance with the demand for possession of the properties vested, in spite of the proclamation of our independence on July 4, 1946? Does that act have extraterritorial effect in the Philippines after Philippine independence? This is the issue now posed by counsel for the defendants who contends that such an extension of authority cannot be entertained as it would be in violation of our Constitution, especially section 2, article VIII, which gives to the Supreme Court jurisdiction to review, revise, reverse, modify, or affirm on appeal final judgments and decrees of inferior courts in all cases involving the constitutionality or validity of any treaty, law, ordinance, executive order, or regulation. Counsel contends that, under this all-embracing judicial power, that act cannot be given such effect in this jurisdiction that would deprive the Supreme Court of its power to look into the validity of the vesting order issued by the plaintiff.

Fortunately, the issue posed by counsel is not new, as the same has already been passed upon by this court in a

similar case. Thus, in the case of *Herbert Brownell, Jr. vs. Sun Life Assurance Company of Canada*, supra., 228 this court held: "It is evident, therefore, that the consent of the Philippine Government to the application of the Philippine Property Act of 1946 to the Philippines after independence was given, not only by the Executive Department of the Philippine Government, but also by the Congress, which enacted the laws that would implement or carry out the benefits accruing from the operation of the United States law." And in another portion of the decision, we also said: "In the case at bar, our ratification of or concurrence to the agreement for the extension of the Philippine Property Act of 1946 is clearly implied from the acts of the President of the Philippines and of the Secretary of Foreign Affairs, as well as by the enactment of Republic Acts Nos. 7, 8, and 477."

It is therefore clear that the Philippine Alien Property Administrator can now invoke section 3 of the Philippine Property Act of 1946 in order to secure the issuance of any peremptory order from any court of first instance in this jurisdiction to enforce a vesting order to enable said Administrator to obtain possession of the properties vested. But, again, the issue that arises is: Is the action taken by the Administrator, by its nature, substance, and prayer, one that comes¹ under said section 3 of the Philippine Property Act of 1946? If it is, then our courts can only pass upon the identity of the property and the question of possession but cannot look into the validity of the vesting order, nor entertain any adverse claim which would require the determination of ownership of the property. (*Silesian American Corporation vs. Markham*, 156 Fed. Supp., 793; *In re Miller* 281 Fed., 764, 773-774; *Miller vs. Kaliwerke Aschersleben Aktien-Gesellschaft*, 253 Fed., 746, 752; *Kahn vs. Garvan*, 263 Fed., 909, 916; *Garvan vs. Certain Shares of International A. Corp.* 276 Fed., 206, 207; *In re Sutherland*, 21 Fed. 2d 667, 669.) If otherwise, then the court can look into the ownership of the property and make the corresponding adjudication. Of course, the vesting may be erroneous, or it may cover property which does not belong to an alien enemy. If this case arises, then the remedy of the interested party is to give notice of his claim to the Alien Property Custodian, and if no action is taken thereon, to bring an action in the proper court under section 9 (a) of the Trading with the Enemy Act, where the validity of the vesting order can be tested and the question of title adjudicated. According to the plaintiff, this is the only course now open to the defendants in this case.

After a careful examination of the complaint filed in this case, we are inclined to uphold the contention of counsel for the defendants¹ to the effect that, "The present action is not one, and could not be one, under section 3 of the Philippine Property Act of 1946 viewed from the standpoint of its form, substance and prayer. The present action is clearly an action for partition of real estate, which incidentally includes personal properties, under Rule 71 of the Rules of Court." This can be gleaned from the nature both of the interest involved and the relief prayed for in the complaint. It should be noted that the complaint prays for partition of the properties and not merely for delivery of their possession. Apparently, this is an action contemplated in Rule 71 wherein the court, before proceeding with the partition, has to pass upon the rights or the ownership of the parties interested in the property (Section 2). In an action for partition the determination of ownership is indispensable to make proper adjudication. In this particular case, this acquires added force considering that the titles of the properties appear issued in the name of defendants, and the plaintiff contends that they belong to enemy aliens. By filing this action of partition in the court a quo, the Philippine Alien Property Administrator has submitted to its jurisdiction and put in issue the legality of his vesting order. He cannot therefore now dispute this power. It is true that the complaint does not specifically allege that the Administrator is invoking the authority of the court under section 3 of the Philippine Property Act of 1946 and that the failure to make mention of that fact should not militate against the stand of the Administrator. But while we agree with this contention, the fact however remains that the very averments of the complaint show that the real purpose of the action is not the recovery of possession but the partition of the properties. This makes this case come, as already said, under Rule 71 of our Rules of Court.

We are, therefore, persuaded to conclude, and so hold, that the lower court did not err in passing upon the

nationality of Carlos and Marie Dolores Teraoka, or in determining the validity of the vesting order issued by the Philippine Alien Property Administrator, wherefore we affirm the decision appealed from, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Concepcion, Reyes, J.B.L., JJ., concur.

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