

PACIFICO M. JUANICO AND MARCOS BARREDO, PETITIONERS AND APPELLEES, VS. AMERICAN LAND COMMERCIAL CO., INC., HONORABLE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES AND JESUS ORT...

G.R. No. L-7459. June 23, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On October 17, 1928 the American Land Commercial Co., Inc., filed with the Bureau of Lands a sales application for the purchase of a parcel of land situated in the barrio of Barurao, municipality of Lebak, province of Cotabato. After complying with the requirements of the law, as well as the rules and regulations promulgated thereunder, the land was awarded to the corporation on October 14, 1932. The total purchase price, including all interests due thereon, has been fully paid. The corporation has likewise complied with the cultivation requirements of the law. Wherefore, an order for the issuance of the patent was entered by the Director of Lands on October 9, 1948.

On June 7, 1949, Pacifico M. Juanico and other companions contested the right of the corporation to acquire the land alleging that it has long abandoned it. They alleged that, when the civil government was organized in Lebak, former Governor Marcelino Concha invited them to settle, occupy, and cultivate the area abandoned by the corporation; that they cultivated the same for nearly ten years; that they were induced to occupy and cultivate the land because the corporation already lost its interest therein; that the corporation has not designated any official to organize its office and attend to its affairs except one Jesus Ortiz, a step-son of the old manager, who leased certain portions of the land; and that the contestants have spent money and labor in cultivating their respective portions of the land and in building their homes thereon.

After due investigation, at which the corporation and the contestants presented their evidence, the Bureau of Lands found that the corporation has already complied with the requirements of the law, especially with regard, to cultivation and improvements, while the contestants were merely share croppers who occupied the land in 1942 and gave the corporation live cavanese of palay each per hectare up to 1949, and, consequently, it dismissed the protest for lack of merit. This decision was affirmed by the Secretary of Agriculture and Natural Resources.

On January 26, 1952, Pacifico M. Juanico and Marcos Barredo, claiming to represent about 256 families, instituted the present petition for certiorari, in the form of a class suit, in the Court of First Instance of Cotabato praying that the decision of the Secretary of Agriculture and Natural Resources, which affirms that of the Director, of Lands, be declared null and void, imputing to said officials the commission of a grave abuse of discretion.

On February 19, 1952, the American Land Commercial Co., Inc., who was made respondent together with the Secretary of Agriculture and Natural Resources, filed its answer denying the abuse of discretion charged and invoking in support of its stand the decision of said official. But on May 12, 1952, petitioners filed an amended petition wherein, for the first time, they contended that respondent corporation has already ceased as a corporation

for having failed to reconstruct its organization papers in the office of the Securities and Exchange Commission as required by section 2 of Republic Act No. 62, as amended by Republic Act No. 350.

After respondents had filed an amended answer, and the case was duly heard, the parties submitting memoranda in support of their contentions, the trial court rendered decision on July 2, 1953 sustaining the decision of the Secretary of Agriculture and Natural Resources. But, on a motion for reconsideration, this decision was reversed and an order issued on October 22, 1953 his honor, Judge Juan Sarenas, holding that respondent corporation has violated section 29 of Commonwealth Act No. 141 in leasing portions of the land without the approval of the Secretary of Agriculture and Natural Resources. The present appeal was taken directly to this court on the allegation that only questions of law are involved.

The main question to be determined is whether the defendant corporation has violated section 29 of Commonwealth Act No. 141, known as Public Land Act, for having leased certain portions of the land without obtaining the previous approval of the Secretary of Agriculture and Natural Resources. Section 29 provides as follows:

"Sec. 29. After the cultivation of the land has been begun, the purchaser, with the approval of the Secretary of Agriculture and Commerce, may convey or encumber his rights to any person, corporation, or association legally qualified under this Act to purchase agricultural public lands, provided such conveyance or encumbrance does not affect any right or interest of the Government in the land: And provided, further, That the transferor is not delinquent in the payment of any installment due and payable. Any sale and encumbrance made without the previous approval of the Secretary of Agriculture and Commerce shall be null and void and shall produce the effect of annulling the acquisition and reverting the property and all rights thereto to the State, and all payments on the purchase price theretofore made to the Government shall be forfeited. After the sale has been approved, the vendor shall not lose his right to acquire agricultural public lands under the provisions of this Act, provided he has the necessary qualifications."

In considering the contracts of lease now disputed by petitioners, the Director of Lands makes the following finding: "A careful study of Exhibits 'A' and 'B' reveals that the first is a clear contract of lease of the land, while the second is the lease of the coconut plantation. They clearly constitute an encumbrance to the land and improvements thereon. Nevertheless, the records also show that the order for issuance of patent for the land was issued by the Director of Lands on October 9, 1948, and the contracts of lease (Exhibits 'A' and 'B') were made in January and July, 1949, respectively. Evidently, the alleged encumbrance was made after the Order of Issuance of Patent was issued, and after the vested rights to the land were already acquired by the respondent."

On the other hand, the Secretary of Agriculture and Natural Resources makes on this point the following comment:

"After considering the facts of the case this Office finds that the appellee has not violated any of the provisions of the Public Land Law because when said alienation and encumbrances were made, the said appellee had already acquired a vested or proprietary right to the land in question. In other words, the aforesaid appellee was already the owner of the land covered by its sales application when the alienation and encumbrance were effected. Being the owner thereof, he need not secure the previous approval of the Secretary of Agriculture and Natural Resources in alienating and encumbering the land covered by its sales application. The law (section 29 of Commonwealth Act No. 141) requires the previous approval by the Secretary of Agriculture and Natural Resources only in case the alienation and encumbrance are made while the land applied for still belongs to the Government. In this particular case, the applicant has already complied with all the requirements of the law and, for that reason, there was already an order for the issuance of patent in its favor. While patent has not been actually issued when the alienation and encumbrance were made, the fact remains that the applicant had already established his vested and proprietary right to the premises and, for that reason, the issuance of patent

on the part of the Government in favor of said applicant is a mere ministerial function."

We find no error in the foregoing construction of section 29 of Commonwealth Act No. 141 relative to any sale and encumbrance of any portion of the land applied for from the Bureau of Lands by a private person. That section contemplates a sale and encumbrance that a purchaser may desire to make during the pendency of his application and before his compliance with the requirements of the law. The reason for the prior approval of the Secretary of Agriculture and Natural Resources is obvious. Since the application is still pending consideration and the rights of the applicant have not yet been determined, he cannot make any transfer that may affect the land without the approval of the Government. Such approval is necessary to protect the interest of the Government. Thus, the law allows an applicant "after the cultivation of the land has been begun" to convey or encumber his rights to any person "provided such conveyance or encumbrance does not affect any right or interest of the Government on the land." And to safeguard such right or interest previous approval of the Secretary is required. But such approval becomes unnecessary after the purchaser had complied with all the requirements of the law, even if the patent has not been actually issued, for in that case the rights of the purchaser are already deemed vested, the issuance of the patent being a mere ceremony. Thus, "the execution and delivery of the patent after the right to it has become complete, are the mere ministerial acts of the officers charged with that duty" (*Simmons vs. Wagner*, 101 U. S. 260). And, as it has been held, "One who has done everything which is necessary in order to entitle him to receive a patent for public land has, even before the patent is actually issued by the land department, a complete acquirable estate in the land which he can sell and convey, mortgage or lease. A fortiori a contract to convey land made before the issuance of a patent but after final proof has been made and the land paid for is not illegal" (38 C. J. S., section 228, p. 875).

Since it appears that defendant corporation has complied with all the requirements of the law, as well as the rules and regulations promulgated thereunder, and as a result the land was awarded to it on October 14, 1932, and an order was issued for the issuance of a patent on October 9, 1948, whereas the contracts of lease were made in January and July, 1949, it follows that said contracts are valid and cannot have the effect of forfeiting the rights acquired to the land by respondent. Said rights are now deemed vested and the only step remaining is the ministerial act of issuing the patent. It is evident that the trial court committed an abuse of discretion in holding otherwise.

As regards the contention that respondent corporation has already forfeited its corporate existence because of its failure to reconstitute its organization papers in accordance with Republic Act No. 62, as amended by Republic Act No. 350, the same merits little consideration, it appearing that respondent is a foreign corporation organized under the State of Delaware, U. S. A., and not under the Philippine laws. Said corporation therefore does not come under our law on reconstitution.

The order appealed from is hereby set aside, without pronouncement as to costs. The effect of this decision will be to revive and put into effect the decision of the Secretary of Agriculture and Natural Resources dated August 29, 1951.

Bengzon, Acting C.J., Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

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