

JOSE R. MAGLUNOB, ET AL., PETITIONER AND APPELLANTS, VS. THE NATIONAL ABACA & OTHER FIBERS CORPORATION, RESPONDENT AND APPELLEE.*G.R. No. L-6203. February 26, 1954*

Ponente: PADILLA, J.

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Pleading that they are landless war veterans and recognized and deserving guerrillas qualified to acquire public lands under Rep. Act No. 65 and as such to enter upon, occupy, settle and take possession of parts of the parcel of land described in paragraph 2 of petition and that pursuant to Rep. Acts Nos. 8 and 65, the directive of the President of the Philippines dated 10 February 1947 (Annex A), the rules and regulations promulgated thereunder (Annex B), and the directive of the President of the Philippines of 19 October 1949 (Annex D), they are entitled to have an award of the parts of the parcel of land they have been in possession and the National Abaca & Other Fibers Corporation, the respondent, is in duty bound legally to make such award, the petitioners pray for a writ to compel the respondent corporation to respect their right over the parts of the parcel of land occupied by them; to execute lease contracts or deeds of sale to give effect to such right in compliance with the orders of the President referred to; and to enjoin the respondent corporation from disturbing them in their peaceful possession and enjoyment of the parts of the parcel of land respectively occupied by them during the pendency of this case. For a writ of preliminary injunction the petitioners offered to file a bond as the court may require and after hearing they prayed that such injunction be made final.

In its answer the respondent alleges that the parcel of land described in the complaint is owned, as evidenced by Torrens transfer certificate of title No. 1405 issued by the Registrar of Deeds in and for the Province of Davao, managed and financed by the Furukawa Plantation Company, a corporation separate, apart and distinct from that of the respondent; that Rep. Acts Nos. 8 and 65 and the directives of the President invoked by the petitioners confer no specific legal right upon the petitioners and impose no ministerial duty upon the respondent to award to war veterans and deserving guerrillas parts of the parcel of land owned by the Furukawa Plantation Company; that the parcel of land in question has been reserved for other purposes, such as to support the Government project in the rehabilitation of the abaca industry in Davao; that in August 1949 the petitioners attempted to squat on parts of the parcel of land in question and to strip the abaca stalks planted and growing therein and the petitioners left only when they were stopped and prevented by the personnel of the Furukawa Plantation Company; that on or about 21 December 1949 the petitioners cut and stripped abaca stalks in the parcel of land but were stopped by the personnel of the Furukawa Plantation Company aided by the soldiers of the P. C. Davao Command; that the action taken against the petitioners was to stop and prevent them from further cutting and stripping the abaca stalks in the parcel of land for their use and benefit and to the damage and prejudice of the rightful owners, the Furukawa Plantation Company; that the petitioners are not entitled to the writ prayed for, because they have no specific legal right to acquire the parcel of land in question and the respondent has no ministerial duty to award to them the parts of the parcel of land allegedly occupied by them; that Rep. Act No. 8 gives only authority to the

President of the Philippines "to designate an existing office, agency or instrumentality of the Government, to take over and administer the properties acquired under the provisions of this Act and the disposition of these properties shall be made in accordance with the existing laws;" that Rep. Act No. 65 gives to the persons mentioned in sections 1 and 2 of the Act, all other qualifications being equal, "preference to purchase public lands and government-owned or managed agricultural farms or subdivisions, to obtain homesteads, concessions and franchises, and other privileges for the exploitation of the national resources which are permissible and made available by existing laws or the like;" that granting that petitioners have a preferential right, they have lost it, because since the passage of the law more than three years have already elapsed. In view of this answer and upon motion of counsel for the respondent a preliminary hearing was held as if a motion to dismiss had been filed.[1] After hearing the court dismissed the complaint on the ground that the parcel of land in question belongs exclusively to a corporation whose board of directors happens to be the same board of directors of the respondent National Abaca and Other Fibers Corporation and for that reason the respondent cannot alienate the lands in question to the petitioners. A motion for reconsideration was denied. From the order of dismissal the petitioners have appealed.

In their brief they claim that they never admitted that the parcel of land in question belongs to the Furukawa Plantation Company and assert that the petitioners have always maintained that the parcel of land has been and still is under the management and disposition of the respondent corporation. The order appealed from states that the allegation that the parcel of land in question is owned, as evidenced by transfer certificate of title No. 1405 issued by the Registrar of Deeds in and for the Province of Davao, managed and financed by the Furukawa Plantation Company, a corporation separate, different and distinct from that of the respondent, was never denied by the petitioners. A denial is, however, unnecessary for all the new matters alleged in the answer are deemed controverted even if the plaintiff fails to make a reply.[2] On this ground alone this case should be remanded to the trial court for further proceedings to determine who is the registered owner of the parcel of land involved in the litigation, because if the Furukawa Plantation Company has a corporate existence separate, apart and distinct from that of the respondent National Abaca & Other Fibers Corporation, the petition for mandamus should be dismissed because it is not against the real party in interest. If the National Abaca & Other Fibers Corporation is the manager of the parcel of land or is managing the plantation therein, it is not the real party in interest or the party against whom the action should be brought. At the preliminary hearing under section 5, Rule 8, the party asserting a fact must prove it by competent evidence. The duplicate for the owner of the Torrens certificate of title must have been presented or the original in the office of the Registrar of Deeds must have been exhibited to the Court. Nevertheless, there is another ground which makes it unnecessary to remand the case for further proceedings to ascertain who is the owner of the parcel of land involved in the litigation, because granting that the parcel of land is included among those that should be disposed of in accordance with the provisions of Republic Act No. 65, still the petitioners have no specific legal right and the respondent has no specific legal duty enjoined by law to perform in connection therewith. It is only a preference and that involves a discretion to determine whether the applicants for lease or sale of parts of a parcel of land under the management of the respondent are entitled to such lease or purchase under the provisions of Republic Act No. 65. Going over the provisions of the directives referred to in the petition for mandamus we fail to find any which confers upon the petitioners a specific legal right and imposes a duty upon the respondent enforceable by mandamus. And it must be so, because executive orders or directives of the President are administrative in nature and they cannot, generally, confer any right because this is only conferred by law.

Upon the second ground, the order appealed from dismissing the petition for mandamus is affirmed, without costs.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion and Diokno, JJ.,

concur.

[1] Section 5, Rule 8, Rules of Court.

[2] Rule 11.

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