

VIRGINIA L. DE CASTRO, PETITIONER, VS. HON. PIO MARCOS, JUDGE OF THE COURT OF FIRST INSTANCE OF BAGUIO CITY AND RUFITO AKIA, RESPONDENTS.

G.R. No. L-26093. January 27, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The corrective powers of this Court are invoked in this, an original petition for certiorari, to strike down the reopening proceedings before the cadastral court below upon the jurisdictional ground of lack of publication, or, in the alternative, to annul said court's orders rejecting petitioner's intervention for want of personality to sue.

The litigation below commenced from the petition of respondent Rufito Akia before the Court of First Instance of Baguio City, acting as a cadastral court, for the reopening of cadastral proceedings, pursuant to Republic Act 931.[1] Respondent Akia there sought the registration in his name of 15,922 square meters of land situated in the City of Baguio.

On July 30, 1965, petitioner Virginia L. de Castro moved to intervene. Her interest is in the 1,000 square meters allegedly included in the 15,922 square meters of land specified in respondent Akia's petition below.[2]

It appears that petitioner Virginia de Castro filed with the Bureau of Lands Township Sales Application [TSA-V-3559 (E-V--405)] covering a 1,000 square meter-parcel of land identified as Lot 1, Quezon Hill Subdivision, Residential Section "K", Baguio City. It was surveyed for which she paid a fee of P150.00 on October 21, 1955. Public auction, duly published, was conducted at which petitioner de Castro was the highest bidder. On December 17, 1955, the lot was awarded in her favor at a cost of P4.30 per square meter, or a total of P4,300.00. Petitioner fully paid the purchase price which, with interests, amounted to P4,306.38. Petitioner, it is claimed, had been paying taxes on the lot.

On August 16, 1965, petitioner's motion for intervention, despite Akia's opposition, was granted by the court below.

At the trial on the merits, petitioner de Castro, respondent Akia, and different government agencies were duly represented. Petitioner de Castro there presented documentary and testimonial evidence in support of her opposition to the inclusion of said 1,000 square meters of land. The case was submitted for decision.

Thereafter, on October 24, 1965, Akia lodged a motion to dismiss petitioner's opposition to his (Akia's) petition to reopen the cadastral proceedings. Ground therefor, amongst others, was that petitioner lacked personality to sue.

On December 4, 1965, over the objection of herein petitioner de Castro, respondent judge ruled out her intervention and dismissed her opposition to the reopening of the cadastral proceedings. He declared that mere applicants of public land have no capacity to sue independently of the Bureau of Lands. The judge did not go into the merits of the case upon the evidence presented.

But, on January 13, 1966, de Castro moved to reconsider. She stressed the fact that she was not a mere applicant of public land but an equitable owner thereof. Because, she was an awardee who had paid to the government, in full, the sales value of the land she applied for.

On February 1, 1966, respondent judge refused reconsideration, this time upon a different ground. The judge based his action on a "Manifestation" of counsel for the Director of Lands of January 21, 1966 stating that on October 15, 1965, the Director of Lands had cancelled the award in favor of petitioner.

A second motion for reconsideration dated February 21, 1966 was registered by petitioner de Castro. She there informed the court that, thru a letter of December 3, 1965, she had urged from the Director of Lands reconsideration of the revocation of the award in her favor. She appended to her motion the foregoing letter where she made it clear that construction of her residential house on the lot as required was an impossibility because, in the year 1955 and several years thereafter, there were no lighting, water and road facilities within the immediate vicinity of the land, and later on, the City Engineer of Baguio refused to issue the required building permit because of the pendency of respondent Akia's petition for reopening heretofore adverted to. She also acquainted the Court with the fact that because of her letter aforesaid, the Director of Lands had asked its Baguio office to reexamine the revocation. At any rate, the land in question, so she continued to aver in her motion, could not be the subject of a petition for judicial reopening as it was never in possession of respondent Akia.

On March 2, 1966, the foregoing second motion for reconsideration was perfunctorily denied by respondent judge.

Then, on March 15, 1966, the Director of Lands came out with an order reinstating petitioner de Castro's award, for the reason that lack of water and lighting facilities found to be true in the investigation conducted by the Bureau of Lands caused delay in the construction of petitioner's house. The Director, however, held in abeyance further action thereon until respondent Akia's petition for reopening is finally decided by the Baguio court.

The next move of petitioner Virginia L. de Castro was to start certiorari proceedings in this Court thru a verified petition praying that the orders of respondent judge, dismissing her opposition to the reopening, be set aside and annulled.

Upon the return of respondents, and the memoranda of the parties, the case is now before us for decision.

1. First to merit attention is the question of jurisdiction.

The thrust of petitioner's argument is that the reopening of the cadastral case below is jurisdictionally tainted by lack of publication.

Respondent Akia's petition for reopening was instituted under Republic Act 931, effective June 20, 1953, which in its Section 1 reads:

“SECTION 1. All persons claiming title to parcels of land that have been the object of cadastral proceedings, who at the time of the survey were in actual possession of the same, but for some justifiable reason had been unable to file their claim in the proper court during the time limit established by law, in case such parcels of land, on account of their failure to file such claims, have been, or are about to be declared land of the public domain, by virtue of judicial proceedings instituted within the forty years next preceding the approval of this Act, are hereby granted the right within five years[3] after the date on which this Act shall take effect, to petition for a reopening of the judicial proceedings under the provisions of Act Numbered Twenty-two hundred and fifty-nine, as amended, only with respect to such of said parcels of land as have not been alienated, reserved, leased, granted, or otherwise provisionally or permanently disposed of by the Government, and the competent Court of First Instance, upon receiving such petition, shall notify the Government, through

the Solicitor General, and if after hearing the parties, said court shall find that all conditions herein established have been complied with, and that all taxes, interests and penalties thereof have been paid from the time when land tax should have been collected until the day when the motion is presented, it shall order said judicial proceedings reopened as if no action has been taken on such parcels."^[4]

The foregoing provision establishes the procedure for reopening cadastral proceedings. Such procedure does not include publication. Neither is publication mentioned in any of the other provisions of Republic Act 931. Section 1 above-quoted merely states that "the competent Court of First Instance, upon receiving such petition, shall notify the Government, through the Solicitor General." About two years back, we held in a case,^[5] that under Republic Act 931, it is unnecessary to furnish the Director of Forestry a copy of the reopen-ing petition "inasmuch as said Act [931] only required service thereof to the Solicitor General."

Jurisprudence informs us that "[A]n order of court in a cadastral case amending the official plan so as to make it include land not previously included therein is a nullity unless new publi-cation is made as a preliminary to such step" and that "additional territory cannot be included by amendment of the plan without new publication."^[6] Upon the other hand, the jurisdiction of a court to issue orders providing for exclusion of land included in the original plan is not affected by failure to order a new publication.^[7]

Here, it should be undisputed that the court already acquired jurisdiction over the entire territory of the Baguio Townsite in the original cadastral case sought to be reopened. It was a reservation suit instituted by the Director of Lands in 1912 (Civil Reservation Case No. 1) to compel registration of lands in Baguio.^[8] The final decision therein was rendered on November 13, 1922. A petitioner who wishes to reopen that case under Republic Act 931 is thus to be logically considered a claimant in the original cadas-tral proceedings. The view has been expressed that in a sense, the government here is the plaintiff and all the claimants are defendants,^[9] who thus become oppositors.^[10] Otherwise, the petition should not be one for reopening but one that begins an entirely new proceeding completely distinct and separate from said case of the Director of Lands.

The view we take is not without foundation. If a prospective intervenor claims a piece of land by an alleged right that has accrued prior to the institution of the original cadastral case, a proceeding in rem, he is, of course, to be deemed to have received notice thru the publication therein made. If his rights are derived from the government after the land has been declared part of the public domain by the cadastral court, then notice to the government of a reopening petition as provided by law, should suffice. For, the government is supposed to take up the cudgels for a public land grantee, or, at the very least, notify the latter. It must be remembered that a petition for reopening under Republic Act 931 can successfully be blocked if it is shown that the land involved therein has already "been alienated, reserved, leased, granted or otherwise provisionally or permanently disposed of by the Government."

True, Director of Lands vs. Benitez, L-21368, March 31, 1966, ruled that the petition to reopen filed in that case under Republic Act 931, must be published as required in Section 1 of the Cadastral Act (Act 2259) because such case is still governed by the procedure laid down by the latter law. The Benitez case, however, must be read in its factual context. There, the petition of the Benitez spouses for reopening the cadastral proceedings covering the entire city of Tacloban, was based on the claim that "through oversight, inadvertence and excusable neglect a portion of" 1,805 square meters of Lot 2157 of the land originally registered in the name of petitioners therein "has not been included in the original survey." They prayed that after appropriate proceedings, said portion (designated as Lot No. 1 of the subdivision plan) be adjudicated to them pursuant to Republic Act 931. In fact, back of the Benitez declaration that publication is necessary is jurisprudence heretofore stated,^[11] that such publication is required when addi-tional territory is sought to be included in the original plan. Indeed, the record of Benitez in this Court shows that the opposition to the reopening petition is predicated on the averment that the cadastral court did not include the lots in controversy because those lots were "part of the offshore land" and

hence, of the public domain which could not be the subject of cadastral survey or of the cadastral case.[12]

To hold without qualification that failure of publication is jurisdictionally fatal in reopening cases under Republic Act 931 is to inject into our statute books something not required.

In sum, the subject matter of the petition for reopening - a parcel of land claimed by respondent Akia - was already embraced in the cadastral proceedings filed by the Director of Lands. Consequently, the Baguio cadastral court already acquired jurisdiction over the said property. The petition, therefore, need not be published.

We hold that the authority of the cadastral court over the reopening proceedings below is not impaired by failure of publication.

2. This brings us to the next question: Does petitioner Virginia L. de Castro have legal standing in the proceedings below?

In an early case,[13] this Court declared that mere citizens could have no interest in public land. At about the same time, this Court also held that to give a party standing in a court of land registration, he must make some claim to the property.[14] Then, in *Archbishop of Manila vs. Barrio of Sto. Cristo*, [15] this Court pronounced that although an opponent in a land registration proceeding could not show title in himself, he was not incapacitated from opposing the registration sought by another. Plain was the statement there that "[a]ll that is necessary to enable anyone to exert the faculty of opposition is that he should appear to have an interest in the property." And, so this Court added, "it is immaterial whether this interest is in the character of legal owner or is of a purely equitable nature as where he is the beneficiary in a trust." Later, this Court described a homesteader who had not yet been issued his title but who had fulfilled all the conditions required by law, as a person who should be regarded as an equitable owner of the land.[16] Similarly, a purchaser of friar land has an equitable title to the land before the issuance of the patent.[17] *Pitargue vs. Sorilla*, [18] laid down the principle that a bona fide applicant of public land may protect his right of Possession and sue for forcible entry or unlawful detainer or pursue any suitable remedy provided by law. Indeed, an awardee in a sales application is authorized to take possession of the land to enable him to comply with the requirements of the award before title can be issued.[19] We held in still another case, [20] that a homestead entry segregates the homestead from the public domain and divests the Director of Lands of control and possession thereof except if the homestead application is finally disapproved and the entry annulled or revoked.

Recently, we declared that persons who claim to be in possession of a tract of public land and have applied with the Bureau of Lands for its purchase have the necessary personality to oppose registration.[21] We have held, too, that an award under a sales application has "the effect of withdrawing the lands of the public domain that were 'disposable' by the Director of Lands." [22]

Under Republic Act 931, the petition for reopening is narrowed down by the specific conditions therein set forth. It bears repetition to say that said petition is possible "only with respect to such of said parcels of land as have not been alienated, reserved, leased, granted, or otherwise provisionally or permanently disposed of by the Government." [23] The statute made it abundantly clear that judicial proceedings shall be reopened only if the cadastral court "shall find that all conditions herein established have been complied with." Thus it is, that the alienation, reservation, lease, grant or any provisional or permanent disposition by the government of the land claimed should suffice to bar reopening.

Petitioner Virginia de Castro here, it must be recalled, is an awardee in the public bidding held upon her own township sales application. Of course, the award up to now has not been fully implemented because she has not yet complied with one condition imposed on her. But, if the award is not a permanent disposition, it is at least a

provisional one, enough to prevent reopening by respondent Akia as to the land disputed.

We, accordingly, rule that petitioner has legal standing before the cadastral court below.

3. The plight of petitioner Virginia de Castro arrests attention. She is an awardee in a sales application of the lot she claims. She paid the government the full price thereof. As such awardee, she was at first allowed by respondent judge to intervene in the present proceedings. She had presented all her evidence. And so had respondent Akia. In truth, the controversy between the two was already ripe for decision. Then came the motion of Akia to throw out petitioner's opposition for want of personality to sue. Despite petitioner's objections thereto, respondent judge granted said motion. Petitioner asked for reconsideration. This was rejected by respondent judge, not on the ground originally set forth, but on a certain "Manifestation" of the Director of Lands that petitioner's award had already been cancelled, because she failed to make the necessary improvements on the property, a condition tacked to the award. That revocation was done without notice to petitioner who came to know of the existence thereof only after she had presented her evidence. In this case,

Worse, petitioner was not served a copy of that manifestation. She was not given a chance to explain - in the Bureau of Lands and in court - why she failed to introduce improvements on the property. When she was finally apprised of the action by the court, she moved to reconsider. She told the court that she had sought reconsideration from the Bureau of Lands of the cancellation of her award because it was an impossibility for her to make the necessary improvements on her property as there were no lighting, water and road facilities in the area, and that when she was about to construct her house afterwards, she was told by the City Engineer of Baguio that she could not be issued the required building permit for the reason that her lot was included in respondent Akia's reopening petition. She even made it of record in court that because of her letter of reconsideration, the Director of Lands issued a memorandum to the Office of the Bureau of Lands in Baguio directing reexamination of the cancellation. There was nothing more that petitioner could have done at that time.

Respondent judge should have taken all these facts into consideration. While petitioner's plea for reconsideration before the Bureau of Lands was pending, appeal by petitioner from respondent judge's order would have been futile. For, there was then nothing definite on which to base her appeal. So, there was really nothing to do but to wait. Upon the other hand, respondent judge should have taken stock of the fact that petitioner was at an obvious disadvantage.

It should be here stressed that the court manifestation of counsel for the Director of Lands heretofore adverted to was explicitly "without prejudice" to the Director's right "to submit further evidence within the period allowable by law, if future circumstances so warrant." Respondent judge should have waited. But he did not. Add to this the fact that if the court in this case should grant Torrens title to Akia, then all the rights of petitioner would be foreclosed. Where else could petitioner go to establish her claim? Thus, when respondent judge finally shut out petitioner's opposition, we perceive a grave abuse of discretion which calls for the corrective powers of this Court.

The injustice suffered by petitioner becomes the more accentuated by the fact that shortly after the court order throwing petitioner's case out of court, the Director of Lands did set aside the order of revocation and reinstated petitioner's award. Well it is to remember that "[c]ourts ordinarily do not deny the writ [of certiorari] if the result would be to deprive a party of his substantial rights and leave him without remedy." [24]

For the reasons given, the writ of certiorari is hereby granted; the orders of December 4, 1965, February 1, 1966, and March 2, 1966 dismissing the opposition filed by petitioner Virginia L. de Castro in the matter of the petition for reopening of judicial proceedings by respondent Rufito Akia (Civil Res. Case No. 1, G.L.R.O. Record No. 211, Court of First Instance of Baguio, Branch I), are hereby annulled; and the respondent judge or who-ever may take his place is hereby directed to reinstate petitioner's opposition aforesaid and to decide the case on the merits.

Costs against respondent Rufito Akia.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Civil Res. Case No. 1, G.L.R.O. Record No. 211, Court of First Instance of the City of Baguio, Branch I, "In the Matter of the Petition for Reopening of Judicial Proceedings, Rufito Akia, Petitioner."

[2] Inspection by the Bureau of Lands reveals that petitioner's lot falls within Lot 1 of PSU-205409, approved on July 17, 1964 in the name of Rufito Akia (Claimant-LRC registrant)." See: Annex B of Motion to Dismiss Oppositions, Annex B of Petition. Rollo, p. 11. On the other hand, respondent Akia avers that petitioner has not clearly identified the land she claims.

[3] Extended until December 31, 1968 under Republic Act 2061, effective June 13, 1958.

[4] Emphasis supplied.

[5] Republic vs. Maglanoc, L-20397, April 29, 1966.

[6] Philippine Manufacturing Co. vs. Imperial, 49 Phil. 122 (syllabus); emphasis supplied. See also: Escueta vs. Director of Lands, 16 Phil. 482, 487; Juan vs. Ortiz Luis, 49 Phil. 252, 256; Lichauco vs. Herederos de Corpus, 60 Phil. 211, 214.

[7] Bank of the Philippine Islands vs. Acuña, 59 Phil. 183, 186.

[8] See: Secs. 53, 83, 86, 87, Public Land Act.

[9] Director of Lands vs. Roman Catholic Archbishop, 41 Phil. 120, 123.

[10] Ponce, The Philippine Torrens System, 1964 ed., p. 227.

[11] Philippine Manufacturing Company vs. Imperial, supra.

[12] Record of L-21368, pp. 41-42. Oppositors therein perhaps mean foreshore lands. The offshore is an area situated off the shore within a zone generally considered to extend to three miles. Webster's Third New International Dictionary, 1964 ed., p. 1568. Legal possession of foreshore lands appertains to the national government or its grantees. Art. 1, par. 3, Spanish Law of Waters of 1866; Art. 420, Civil Code, Cagampang vs. Morano, L-25738, March 14, 1968.

[13] Roxas vs. Cuevas, 8 Phil. 469, 475.

[14] Couto vs. Cortes, 8 Phil. 459, 461, citing Roxas vs. Cuevas, supra.

[15] 39 Phil. 1, 7.

[16] Balboa vs. Farrales, 51 Phil. 498, 501-503.

[17] Anno., 17 Supreme Court Reports Anno. 82, citing Director of Lands vs. Rizal, 37 Phil. 806; Lorenzo vs. Nicolas, 91 Phil. 686; Pugeda vs. Trias, L-16925, March 31, 1962; Alvarez vs. Espiritu, L-18833, August 14, 1965.

[18] 92 Phil. 5, 15.

[19] Visayan Realty, Inc. vs. Meer, 96 Phil. 515, 520.

[20] Diaz vs. Macalinao, 102 Phil. 999, 1002.

[21] Heirs of Pelagio Zara vs. Director of Lands, L-19535, July 10, 1967.

[22] Director of Lands vs. Court of Appeals, L-17696, May 19, 1966, citing Diaz vs. Macalinao, supra, and People vs. Lapasaran, 100 Phil. 40; emphasis supplied.

[23] Section 1, Republic Act 931; emphasis supplied; Director of Lands vs. Benitez, supra. See also: Lachica vs. Ducusin, 102 Phil. 551, 554-555.

[24] 3 Moran, Comments on the Rules of Court, 1963 ed., p. 154, citing 14 C.J.S. 190 and People vs. Caluag, 94 Phil. 457. The Caluag case, at pp. 459-460, declared:

"x x x Aunque ordinariamente es importante que no exista apelacion, o que esta sea inadecuada para la viabilidad del recurso, no por falta del requisito ha de permitirse el extravio irremediable de la justicia. Es mas importante el requisito de que no haya jurisdiccion, o haya exceso de ella o grave abuso de discrecion, que perjudica derechos sustanciales. Por eso en numerosos casos este Tribunal ha concedido el recurso aunque el remedio propio era la apelacion, o esta se ha presentado fuera de tiempo, o no se ha presentado ninguna. Alfonso vs. Yatco, 80 Phil. 407; Director of Lands vs. Abada, 41 Phil. 71; Director of Lands vs. Santamaria, 44 Phil. 594; Director of Lands vs. Gutierrez David, 50 Phil. 297; Perlas vs. Concepcion, 34 Phil. 559; Dais vs. Court of First Instance, 51 Phil. 396; Cavan vs. Wislizenus, 48 Phil. 632; Lipana vs. Court of First Instance, 70 Phil. 365; Agustines vs. Judge, 80 Phil. 558; Crisostomo vs. Judge, 66 Phil. 1; Reyes vs. Borbon, 51 Phil. 291; Gov. vs. Judges, 57 Phil. 500; Clemente vs. Lukban, 53 Phil. 931; Antiporda vs. Mapa, 55 Phil. 89.

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