

**ANDRES CASTILLO, PETITIONER-APPELLANT VS. JUAN RODRIGUEZ,
AS SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, ETC.,
ET AL., RESPONDENTS AND APPELLEES.**

G.R. No. L-17189. June 22, 1965

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from a decision of the Court of First Instance of Cebu finding the respondent Elias L. Casals, as represented by Camilo Casals, entitled to preferential right, as against the herein petitioner, in connection with the land disputed at bar.

As recited in the decision under appeal, the facts of this case, as borne out by the record, are as follows:

"* * *. That the lot in question was originally embraced in the area covered by Foreshore Lease Application No. 592 (E-104) of Restituto Casals, father of the appellee, who occupied and improved the same but which application was subsequently converted as Miscellaneous Sales Application No. 7861 of said applicant; that said application was amended so as to exclude therefrom the portion which was certified by the District Engineer of Cebu as needed for future public improvements; that Miscellaneous Sales Application No. 7861 has been patented in favor of applicant Restituto Casals; that the excluded portion which is the premises in question continued to be occupied by applicant Restituto Casals until his death and said occupation and possession was continued by Elias Casals, the appellee herein now represented by Camilo Casals; that sometime in 1951 the City Engineer of Cebu in a representation of the Republic of the Philippines offered the lot in question to Elias Casals in exchange of his private property affected by the opening of Colon Extension Street, but when the proposed exchange was referred to the Director of Lands, the said official in his letter dated May 5, 1952, did not approve of it on the ground that there was no law authorizing exchange of public land with that of private property, but at the same time manifested that he will not interpose any objection for the owner of the private land if qualified, to file application therefor; that by virtue thereof, Elias Casals on June 4, 1952 filed his Miscellaneous Sales Application No. 16888 over the premises; that the private property of Elias Casals was taken by the government in the construction of said Colon Street; that the land on which was built the house of Andres Castillo, the appellant herein was also affected by the construction of said Colon Street; that the City Engineer of Cebu requested him to transfer his house, and with the permission granted him (Castillo) by Aquilino Vda.de Casals, mother of the appellee, to temporarily occupy the premises, moved his house to the land in question; but after staying for sometime refused to vacate the place and instead filed his Miscellaneous Sales Application No. 19124 on May 19, 1953 for a portion of the land applied for by Ellas Casals; that applicant Castillo made additional improvements thereon without permit from the District Land Officer or the Director of Lands; and that applicant Casals constructed a house on the premises in question after filing his permit application with the District Land Officer and obtaining a permit from the City Engineer of Cebu City."

As the above two miscellaneous sales applications referred to the same public land consisting of 193 square meters located at Barrio Abuno, Cebu City, the Bureau of Lands designated one of its lawyers, Atty. Cornelio Albos, to investigate the conflicting claims of the applicants. On December 22, 1953, the said investigator

submitted a report the recommendatory portion of which was the following:

"In view of foregoing circumstances, it is respectfully recommended that the Miscellaneous Sales Application No. V-19126 of the Applicant Contestant, Andres Castillo, be given due course, and the Miscellaneous Application No. V-16888 of the Heirs of Elias Casals be amended to exclude therefrom the portion now in question which is claimed and occupied by the applicant-contestant,"

On review, however, by the District Land Officer of Cebu, the above recommendation of Investigator Cornelio Albor was rejected and the disputed land was awarded to Camilo Casals, in representation of the deceased Elias L. Casals. In turn, this ruling of the District Land Officer was forwarded to the Director of Lands, before whom applicant Andres Castillo also addressed a motion for the reconsideration of the ruling of the District Land Officer. In due time, however, the Director of Lands sustained the finding of the District Land Officer of Cebu and denied the above motion for reconsideration.

Andres Castillo then elevated the matter to the Secretary of Agriculture and Natural Resources who, on February 25, 1955, rendered a decision finding the appeal un-meritorious. On August 6, 1955, the said Secretary denied the motion for reconsideration filed thereto by the herein petitioner-appellant.

Still unsatisfied with the decision of the Secretary of Agriculture and Natural Resources, Andres Castillo appealed the same to the Office of the President which, however, on April 26, 1956 and thru its Executive Secretary, rendered a decision sustaining in all respects the action taken by the Department of Agriculture and Natural Resources.

On July 10, 1956, been petitioner instituted a suit for certiorari with the Court of First Instance of Cebu against the Secretary of Agriculture and Natural Resources, the Director of Lands and Elias L. Casals. The Executive Secretary, who was the last to act on the controversy at bar and who handed down a decision which superseded those which were rendered by the Director of Lands and the Secretary of Agriculture and Natural Resources, was not made a party. After hearing, the said court promulgated its decision dated October 15, 1958, the dispositive portion of which provided:

"IN VIEW OF THE FOREGOING, judgment is hereby rendered, dismissing the petition with cost against the petitioner. The writ of preliminary injunction issued in this case against the respondents is hereby dissolved."

From the above decision, the appeal on hand was filed.

We find for the respondents-appellees.

As intimated above, the last decision upholding the claim of the respondent heirs of Elias Casals was the decision of the Office of the President as promulgated by its Executive Secretary on April 26, 1956. This latter decision indeed superseded those which were handed down by the Director of Lands and the Secretary of Agriculture and Natural Resources. And yet, the subject matter of the instant appeal, as in the certiorari proceedings in the court below, is not the above decision of the Executive Secretary, but, the decisions of the two respondent officials herein. Consequently, the decision of the Executive Secretary, as it was the last, binding and operative decision in the matter on hand and from which any appeal in this instance should have been taken, must be deemed to have lapsed into a finality that bars the perfection of an appeal. Then, too, the Executive Secretary, whose decision was the controlling judgment prior to the institution of this suit, was not even made a party herein. Nor was he so made in the court a quo. Consequently, any ruling now against his said decision would have no binding effect on him at all. Neither this Court nor the court below has acquired jurisdiction over him with respect to the controversy in this incident.

Even overlooking the above procedural aspect, however, We find no merit in this appeal. Essentially, this petition

questions the factual finding of the District Land Officer of Cebu, the Director of Lands and the Secretary of Agriculture and Natural Resources to the effect that as between the herein petitioner and Elias L. Casals, the latter should be accorded the preferential right over the disputed lot. The findings of the above-named officials have not been shown to be wanting in reasonable evidentiary bases. As a matter of fact, the very numbers and dates of the contestants' miscellaneous sales applications conclusively show that Elias L. Casals filed his application way ahead of the petitioner. The former filed his M.S.A. No. 16888 on June 4, 1952 while the latter's application, M.S.A. No. 19124, was filed only on May 19, 1953. Neither has Elias L. Casals been shown by the petitioner or the records to be suffering from any legal disqualification to be awarded the lot in dispute. Consequently, and conformably with settled jurisprudence, We shall not disturb the decisions of the Director of Lands and the Secretary of Agriculture and Natural Resources on the matter.

"The decision of the Director of Lands, affirmed by the Secretary of Agriculture and Natural Resources, on a factual matter should be binding on the court." (Julian v. Apostol, 52 Phil. 422)

WHEREFORE, the appeal of the petitioner-appellant is hereby dismissed, with costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes, Dizon, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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