

JESUS ALVAREZ, PETITIONER AND APPELLANT, VS. THE DIRECTOR OF LANDS, THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES AND AVELINO P. GARCIA, RESPONDENTS AND APPELLEES.

G. R. No. L-11486. January 30, 1959

Ponente: PADILLA, J.

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PADILLA, J.:

In a petition dated 25 January 1955, amended by another dated 3 March of the same year, filed in the Court of First Instance of Camarines Sur, the petitioner alleges that he was suing in his own behalf and in behalf of all the members of Isarog Lodge No. 33 of free and Accepted Masons, a part and parcel and subsidiary of the Grand Lodge of Free and Accepted Masons of the Philippines, Inc; that sometime in 1931, the Lodge applied for the lease of parcel of public land situated at Naga City by filing an application therefor in the Bureau of Lands; that pending approval of the application, the Lodge constructed sometime in 1933 a building of strong materials on the parcel of lands, which was totally destroyed during the last war; that sometime in June 1945, Avelino P. Garcia built a house of strong materials on the parcel of land without the consent of the Lodge, its representatives or members; that Paulo Elizan, a member and representative of the Lodge, called Garcia's attention to the fact that he was usurping the property of the Lodge; that the members of the Lodge took steps to reconstitute and revive their application for the lease of the parcel, of land ; that Garcia filed an objection thereto on the ground that the Lodge, not being duly incorporated or registered, had no juridical personality to lease lands of the public domain and the necessary datas of its individual members required by the law to be set forth in the application were not stated therein (Annex A, pp. 5-7, record on appeal); that after hearing, on 8 December 1945 the Director of Lands overruled the opposition and ordered the oppositor to remove the building erected on the parcel of land (Annex B, pp. 7-11, record on appeal); that the oppositor appealed to the Secretary of Agriculture and Natural Resources; that on 28 August 1946, the latter, relying upon the opinion of the Secretary of Justice dated 14. August 1946, that being unincorporated, the Lodge had no juridical personality and could not lease lands of the public domain, reversed the decision of the Director of Lands and denied the application of the Lodge (Annex C, pp. 12-13, record on appeal); that on 23 January 1948 their motion for reconsideration (Annex D, pp. 14-15, record on appeal), was denied by the Secretary of Agriculture and "Natural Resources (Annex E, pp. 15-17, record on appeal); and that there is no plain, speedy and adequate remedy in the Section 2, Rule 3. ordinary course of law. Upon the foregoing allegations the petitioner prays that after hearing judgment be rendered setting aside the decision of the Secretary of Agriculture and Natural Resources dated 28 August 1946, and the order dated 23 January 1948 denying their motion for reconsideration (civil No. 290); declaring valid the Miscellaneous Lease Application No. 1479 of Isarog Lodge No. 33; and ordering the respondent Avelino P. Garcia to vacate the parcel of land, to remove the improvements erected thereon, to deliver possession of the parcel of land to the petitioner and to pay damages in the sum of P20,000 to the members of the Isarog Lodge and costs.

The respondent Garcia filed a motion to dismiss the amended complaint on the following grounds: (1) lack of

legal capacity to sue; (2) failure to state a cause of action; (3) prescription or laches; and (4) the verification is null and void. The respondent Secretary of Agriculture and Natural Resources, joined by the respondent Director of Lands, filed a similar motion invoking the first ground relied upon by the first movant. The petitioner filed an objection to the motion to dismiss. After the parties had filed their respective memoranda in support of their contentions, the Court dismissed the petition. Motion for reconsideration was denied. The petitioner appealed to the Court of Appeals which certified the case to this Court for the reason that it only involves questions of law.

Every action must be prosecuted in the name of the real party in interest.^[1] The real party in interest is the one who would be benefited or injured by the judgment, or the party entitled to the avails of the suit. The petitioner alleges that he "is suing in his behalf and in behalf of all the members of the Isarog Lodge No. 33 of the Free and Accepted Masons," "which is a part and parcel and subsidiary of the Grand Lodge of Free and Accepted Masons of the Philippines." In the petition filed by Antonio Gonzales, Grand Secretary and Attorney for the Grand Lodge of Free and Accepted Masons of the Philippines, Inc., to reconsider the decision of the Secretary of Agriculture and Natural Resources, it is alleged—

- That the Grand Lodge of the Philippine Islands is a corporation duly organized under the laws of the Philippine Islands being duly registered since September 15, 1912, its registration being No. 867 and its records are now duly reconstituted, in the Office of SECURITIES AND EXCHANGE COMMISSION.
- That in paragraph SECOND of its articles of Incorporation the following is provided:
 - (a) To inculcate the principles of ancient and accepted Masonry.
 - (b) To issue charters to, and preserve the regularity of, all Masonic Lodges within the Philippine Islands.
 - (c) To acquire, own, administer, sell and transfer such real and personal property as may be necessary for the use of the corporation.
- That the Grand Lodge of the Philippine Islands for this reason has many branches consisting of its subordinate lodges in the City of Manila, and in several cities and provinces, ISAROG LODGE NO. 33 being one of them.
- That ISAROG LODGE NO. 33 is a branch and as such forms a part of the corporation of the Grand Salonga vs. Warner, Barnes & Co. Ltd., G.E. No. L-2246, Lodge of the Philippine Islands, its judicial personality being that of the Grand Lodge of the Philippine Islands, which is thus entitled to acquire, own and administer real and personal properties. (Annex D, pp. 14-15, record on appeal.)

The real party in interest, therefore, is the Grand Lodge of Free and Accepted Masons of the Philippines, Inc.; not the Isarog Lodge No. 33, which is but a branch of the main body.

Section 33 of Commonwealth Act No. 141 requires of corporations or associations applying for lease of lands of the public domain that they be organized and constituted under the laws of the Philippines, and section 90(a) of the same Act ordains them to attach to their lease application of lands of the public domain a certified copy of their articles of incorporation or association. As the Isarog Lodge No. 33 is an unincorporated association not endowed with a distinct juridical personality of its own, it cannot by itself alone lease lands of the public domain. And as in this particular case the real party in interest must sue in its own behalf, a member of the Isarog Lodge No. 33 cannot maintain a class suit in his own behalf and in behalf of the other members.

The order appealed from is affirmed, without pronouncement as to costs.

Paras, C.J., Bengzo, Montemayor, Reyes, A. Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.

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