

FELICIANO AUREUS, PETITIONER AND APPELLEE, VS. THE SECRETARY OF AGRICULTURE AND COMMERCE, THE DIRECTOR OF LANDS AND THE DISTRICT LAND OFFICER OF NAGA, CAMARINES SUR, RESPONDENTS...

G.R. No. L-2367. November 11, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

This is an appeal from a judgment of the Court of First Instance of Camarines Sur commanding the respondents to desist from enforcing a decision of the Secretary of Agriculture and Commerce, which said court declared null and void.

Said decision was rendered on the application of Feliciano Aureus for a revocable permit to occupy and use a parcel of public land situated in the poblacion of Naga, Camarines Sur, and the opposition thereto of Jovetillo Abiog. By that decision the Secretary of Agriculture and Commerce authorized Jovetillo Abiog "to occupy the land in controversy upon payment to the Bureau of Lands of his back rentals for the years 1939, 1940, and 1941, plus 4% interest thereon, and the rentals for the period beginning June 1, 1945, up to May 31, 1946"; sustained the order of the Officer-in-Charge of the Bureau of Lands dropping the revocable permit application of Feliciano Aureus; and ordered the latter to vacate the premises within thirty days .

It appears that on March 7, 1931, Jovetillo Abiog obtained revocable permit No. 3008 for the temporary occupation and use of the parcel of land above mentioned, on which he had then already constructed his residential house. He occupied the land continuously until his house was burned in 1942, when he evacuated from Naga and lived somewhere else during the period of the war. On June 8, 1945, he returned to Naga and had the land in question cleared of the ruins of his burned house with the intention of reoccupying the premises. On June 25, 1945, however, Feliciano Aureus commenced the construction of a house on the land in question over the verbal and written protests of Abiog. Subsequently, that is to say, on August 17, 1945, Aureus filed with the district land officer of Camarines Sur an application for a revocable permit to occupy said land. That application was opposed by Jovetillo Abiog on the ground that as a prewar permitted and occupant of said land he had a better right thereto. Abiog's revocable permit was good and valid for a period of one year from November 1, 1940 to October 31, 1941, subject to renewal upon due notice and payment of the permit fee 45 days in advance of the date of the expiration of the permit. The said permit has never been expressly renewed nor canceled. The permittee Abiog was in arrears in the payment of the rentals, so much so that the last payment made on November 24, 1941, was credited to the rental for the year 1938.

After investigating the case, and finding the facts to be as above narrated, the district land officer decided "that Jovetillo Abiog should be as he is hereby given further privilege to occupy the land in controversy upon payment to the Bureau of Lands of his back rentals for the years 1939, 1940, and 1941, plus 4% interest thereon, and [the rentals] for the period from June 1, 1945, to May 31, 1946. The revocable permit application (new) of Feliciano

Aureus is hereby rejected and he is hereby ordered to vacate the premises within thirty days from the date he receives a copy of this decision." Upon motion for reconsideration presented by Feliciano Aureus, the Officer-in-Charge of the Bureau of Lands issued an order whereby he canceled Abiog's revocable permit, dropped the application of Feliciano Aureus, and declared the land in question vacant. From said order only Jovetillo Abiog appealed to the Secretary of Agriculture and Commerce, who rendered the decision hereinabove mentioned. Thereupon Feliciano Aureus commenced the present action in the Court of First Instance of Camarines Sur by filing a petition for prohibition and mandamus against the Secretary of Agriculture and Commerce, the Director of Lands, and the district land officer of Naga, Camarines Sur, praying that the said respondents be ordered to desist from enforcing the decision of the Secretary of Agriculture and Commerce and that a writ of mandamus be issued against the respondents commanding them to cancel the revocable permit of Jovetillo Abiog and immediately approve the revocable permit application of the petitioner Feliciano Aureus. Judge Jose T. Surtida of said court granted the petition for prohibition on the ground that the decision was null and void, but denied the petition for the writ of mandamus on the ground that the Secretary of Agriculture and Commerce had authority and discretion to decide the case the exercise of which cannot be controlled by the court.

The trial court based its decision annulling that of the respondent Secretary of Agriculture and Commerce on the ground that "the land in question was abandoned by Jovetillo Abiog in 1942, when his house thereon was burned, and that when he returned to Naga in June of 1945 he found it already occupied by the petitioner"; that Abiog did not renew his old permit upon its expiration; that he was very much in arrears in the payment of the permit fee; and that the fact that his permit was not formally canceled did not entitle him to claim any right thereunder.

On the other hand the Secretary of Agriculture and Commerce, in deciding the case in favor of Abiog, reasoned as follows: "Feliciano Aureus [the petitioner] had no right whatsoever to enter upon the land in question and introduce improvements thereon against the verbal and written protests of Jovetillo Abiog. His unauthorized, not to say unlawful, entry upon the premises could not confer upon him any right thereto, and his attempt to legalize said entry by filing a revocable permit application therefor is not a sufficient justification for the Bureau of Lands to disregard Abiog's long, continuous, and recognized occupation of the land in question by declaring the same vacant and disposable under the provisions of Lands Administrative Order No. 8-3. In other words, this office is of the opinion that Aureus' unlawful entry upon the land in controversy could not in any way affect Abiog's long and continuous occupation thereof which had been tacitly and impliedly recognized by the Bureau of Lands, and for that reason said unlawful entry either in law or in equity could not be a basis for that bureau to declare the land aforementioned as vacant and disposable under Lands Administrative Order No. 8-3 . . .*"

In order that the writ of prohibition applied for by the petitioner-appellee may prosper, it must be shown that the respondent Secretary of Agriculture and Commerce acted without or in excess of his jurisdiction, or with grave abuse of discretion. (Section 2, Rule 67.) It is admitted that he had jurisdiction to act. (Section 3, Commonwealth Act No. 141, known as the Public Land Act.) Did he commit a "grave abuse of discretion"? Did he violate any provision of law to the prejudice of any right of the petitioner? The answer to these questions will decide this case.

We find no basis for an affirmative answer to these questions. The petitioner has not acquired any right whatsoever over the piece of public land in question which he could enforce by invoking the aid of the court. The mere filing by him of an application for a permit to occupy a piece of public land did not create an obligation on the part of the respondents to grant his application. If it did, the Director of Lands or the Secretary of Agriculture and Commerce (now Secretary of Agriculture and Natural Resources) would be a mere robot of every such applicant. It is discretionary in the said officials to grant or not to grant such application.

Under paragraph 1 of Lands Administrative Order No. 8-3, permits for the temporary occupation and use of

nontimber, nonmineral public lands and lands and other real properties of the Republic of the Philippines may be issued only when such lands are vacant and the use thereof will not be prejudicial to public interest; and paragraph 2 of said order defines "vacant land or property" as "land or property of the Commonwealth [Republic] of the Philippines which is not occupied by any person, or is occupied by a person disqualified to acquire it or by a person who, being qualified to acquire it, refuses or fails to exercise his preferential right thereto." In the present case the respondent Secretary of Agriculture and Commerce considered the land applied for by the petitioner as being occupied by Jovetillo Abiog for the reason that the latter had previously obtained a permit to occupy it and had actually occupied it although his occupation was interrupted by the war but was resumed after the war. In holding that Abiog had preferential right to the land in question and in authorizing him to occupy it upon payment of the back rentals with interest thereon, the respondent Secretary of Agriculture and Commerce made a lawful and just exercise of his discretion. We find no valid ground for annulling his decision. In any event, the court cannot substitute its own discretion for that of the respondent Secretary of Agriculture and Commerce in deciding the application of the petitioner. The court is only authorized to correct a grave abuse of such discretion; and not only is there no such abuse of discretion but, as we have noted, it was lawfully and justly exercised.

The judgment appealed from is reversed, with costs against the appellee.

Moran, C.J., Paras, Bengzon, Padilla, Tuason, Reyes, and Torres, JJ., concur.

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