

MIGUEL GUERRERO, PETITIONER-APPELLANT, VS. HON. AUGUSTO M. AMORES AND ABELARDO DEVELOS, RESPONDENTS-APPELLEES.

G.R. No. L-34492. March 28, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to set aside: (a) the Order (Rollo, pp. 14-17) of the then Court of First Instance of Zambales, Branch I, Olongapo City* promulgated on May 11, 1971, dismissing Civil Case No. 720-0 entitled "Miguel Guerrero vs. Abelardo Develos" for recovery of possession of a piece of land filed by plaintiff (herein petitioner) on the ground that administrative remedies were not fully exhausted; (b) the Orders dated June 17, 1971 (Rollo, p. 18) and July 9, 1971 (Rollo, p. 19) denying petitioners Motion for Reconsideration for lack of merit.

As gathered from the pleadings of the parties, the factual background of the case is as follows:

Petitioner and private respondent filed their respective Miscellaneous Sales Applications on two (2) adjacent lots they individually occupy with a common boundary located in Olongapo Townsite Subdivision, Olongapo City with the Bureau of Lands. Petitioner's application covers Lot No. 2959, Ts-308 with application No. (1-4)-1359; while private respondent's covers Lot No. 2960, Ts-308 with application No. (1-4)-1359.

Claiming that private respondent occupies the northern portion of the lot petitioner applied for he filed a Protest with the Bureau of Lands docketed as B.L. Conflict No. 34 (N). A Decision was rendered in favor of petitioner on November 30, 1967 by the Director of Lands, the dispositive portion of which is quoted as follows:

"IN VIEW HEREOF, this office is of the opinion, and so holds that Miscellaneous Sales Application No. (1-4)-1359 of the Abelardo Develos, for lot No. 2960, as surveyed, be confined to the said lot and that he must vacate the premises of lot No. 2959 on the northern portion thereof on which his house is located giving him 120 days from the date of his receipt of this decision within which to remove said house and any or all other improvements he may have introduced thereon at his cost. Miscellaneous Sales Application No. (1-4)-1358 of the protestant, Miguel Guerrero, shall henceforth, be given due course." (Brief for Petitioner-Appellant, p. 4, Rollo, p. 59)

Copy of the decision was received by private respondent on December 30, 1967.

On February 26, 1968, private respondent filed a Motion for Reconsideration of the aforementioned Decision. This was followed by a second Motion on June 16, 1969 reiterating the prayers in the first motion and expanding his arguments to justify a reconsideration of the decision. The Director of Lands came out with an Order dated July 22, 1969 denying the motions for reconsideration. Private respondent filed his third Motion dated September 16, 1969 seeking the resolution of the second Motion which was amplified by a Memorandum dated August 4, 1969. On October 16, 1969, an Order was issued denying the third Motion as merely suppletory to the second motion, hence passed upon in the July 22, 1969 order (Record on Appeal, p. 52). A fourth motion was filed on November 11, 1969 seeking clarification of the October 16, 1969 Order.

On November 18, 1969, the Director of Lands issued its Order of Execution (Record on Appeal, pp. 32-33) which was received by private respondent on December 3, 1969 without resolving the clarificatory fourth motion.

Private respondent filed a Motion for New Trial on February 4, 1971 with the Bureau of Lands (Record on Appeal, pp. 36-39) praying, among others, that the Decision of November 30, 1967 be lifted and held in abeyance; a counter Protest (Record on Appeal, pp. 40-42) dated February 4, 1971, entitled "Abelardo Develos vs. Miguel Guerrero, et al." and a "Third-Party Protest" (Record on Appeal, pp. 39-40) on March 23, 1971. No action was taken by the Bureau of Lands on these pleadings until June 30, 1971 when a letter-order was issued denying the Motion for New Trial, (Rollo, p. 39). Private respondent filed a "Motion for Resolution of Motion of November 11, 1969 and Third-Party Protest of March 23, 1971; Reconsideration of Letter Order of June 30, 1971; and Recall of Order of Execution of November 18, 1969; and Letter Order of October 16, 1969 and Miscellaneous" dated July 8, 1971 (Rollo, pp. 46-49). This Motion for Resolution in turn has not been resolved.

On February 19, 1971, a complaint for recovery of possession and damages due to the refusal of private respondent to vacate the premises despite an unfavorable decision by the Bureau of Lands, Civil Case No. 720-0 (Record on Appeal, pp. 1-3) was filed by petitioner as plaintiff against private respondent as defendant with the then Court of First Instance of Zambales, Branch I, presided over by herein respondent judge. Petitioner alleged among other things that he has been in possession of the lot in question since 1945 to the present and that private respondent was a mere lessee of petitioner. Private respondent was allowed to construct a small house in petitioner's lot, however, it was later on enlarged and constructed with strong materials. It was further alleged that petitioner has with him a favorable decision of the Bureau of Lands. After a preliminary hearing was conducted on the special and affirmative defenses as if a motion to dismiss^[1] had been filed, the trial court dismissed the case in its Order dated May 11, 1971 for failure of the petitioner to exhaust administrative remedies. The dispositive portion of the Order states:

"WHEREFORE, finding the motion to dismiss to be meritorious, the same is hereby granted and the case is dismissed, without prejudice. Without pronouncement as to costs." (Rollo, p. 17)

Petitioner's Motions for Reconsideration were denied in the January 17, 1971 (Rollo, p. 18) and July 9, 1971 (Rollo, p. 19) Orders of the trial court.

Hence, this petition filed on January 13, 1972 (Rollo, pp. 6-13).

In a resolution dated January 18, 1972, the Court required respondents to file their comment on the petition (Rollo, p. 21). In compliance therewith, private respondent filed his comments with prayer to dismiss the petition, on February 10, 1972 (Rollo, pp. 22-24). Petitioner was required to file his reply to the comment in the Resolution of the Court dated February 29, 1972 which order petitioner complied with by submitting his Comments (Rollo, pp. 27-29) (actually a Reply) on March 20, 1972.

In view of the "Comments" of petitioner and his allegation in the petition to the effect that the decision of the Bureau of Lands has already been executed, the Court, in a resolution dated May 8, 1972 (Rollo, p. 31), resolved to require petitioner to state what happened to the "execution" by the Bureau of Lands under Section 1844 of the Revised Administrative Code and why Civil Case No. 720-0 of the then Court of First Instance of Zambales had to be filed yet inasmuch as the Court was not furnished with the proper annex of the motion for reconsideration referred to in the petition. Petitioner complied with the resolution by filing his "Manifestation" on May 23, 1972 (Rollo, pp. 32-34).

The Court further resolved to require petitioner to state categorically whether or not the execution referred to his "Manifestation" of the decision of the Bureau of Lands was ordered after the denial of "the motion for new trial" and "third party protest" mentioned in the order under review and to furnish the Court with copies of the

corresponding orders, in its resolution dated June 6, 1972 (Rollo, p. 36). Petitioner submitted his "Compliance" (Rollo, pp. 37-38) on June 26, 1972.

The Court resolved in a resolution dated July 11, 1977 (Rollo, p. 42), to give due course to the petition and to consider the "Comments" of respondent dated February 3, 1972 as respondent's answer and to consider case submitted for decision unless an amended answer is filed.

Private respondent submitted his "Amended Comments-Answer" on August 15, 1972 (Rollo, pp. 43-49) which was noted by the Court in its resolution on August 22, 1972 (Rollo, p. 52).

Petitioner-appellant submitted his Brief on November 14, 1972 while respondent-appellee submitted his Brief on March 15, 1973. In a resolution dated June 14, 1973, the Court considered the case submitted for decision without petitioner's reply brief.

Petitioner raised the following assignments of error.

I

"In accordance with the facts of the case as embodied in the record, the respondent Court of First Instance erred in ruling that administrative remedies have not been fully exhausted.

II

"The complaint in the instant case, which alleged several independent grounds for recovery of possession cannot be defeated by a mere allegation of a pending administrative action.

III

"The Court has jurisdiction over recovery of possession despite the pendency of the case before the Director of Lands involving the same land.

IV

"The finding of the Court is devoid of support in the records of the case and the conclusion arrived at is glaringly erroneous as to constitute a grave abuse of discretion tantamount to lack of jurisdiction." (Rollo, p. 8).

The principal issue is whether or not the Court has jurisdiction over the action despite the pendency of the case before the Bureau of Lands. As corollary thereto, another issue, is whether or not the remedies at the administrative level should have been exhausted before recourse through court action could prosper.

Petitioner claims that he has exhausted administrative remedies. He alleges that the decision of the Bureau of Lands in B.L. Conflict No. 34 (N) on November 30, 1967 was already executed. To buttress the allegation, he submitted the Order of Execution dated November 18, 1969 (Record on Appeal, pp. 18-19), the proceedings during the execution (Record on Appeal, pp. 52-53), the certification of the District Land Officer dated December 2, 1970 that the decision has become final and executory and the same has been executed (Record on Appeal, pp. 33-34), the official communication to the lawyers of the parties dated June 30, 1971 stating that the case is considered settled and adjudicated (Record on Appeal, p. 63), and resolution-letter dated June 30, 1971 denying the motion for new trial, and considering the case closed with the issuance of the order of execution (Record on Appeal, p. 64).

Private respondent holds that the numerous motions he filed, unresolved as they are, operated to suspend the running of the period of appeal, hence, there was no complete and final termination of the case with the Bureau of Lands, and points to the absence of exhaustion of administrative remedies prior to the filing of the case in Court.

He maintains that the 120-day period given by the Bureau of Lands from the receipt of its decision within which to vacate and clear the premises has been interrupted leaving 61 days within which to appeal. He further pointed out that he is not occupying any portion of the petitioner's lot, and his lot is not involved in the case (Record on Appeal, p. 54).

There is merit in the instant petition.

This issue has long been settled by this Court in a long line of decisions. As early as the case of Pitarque vs. Sorilla, 92 Phil. 5 (1952), the Supreme Court declared:

"The vesting of the Lands Department with authority to administer, dispose of, and alienate public lands must not be understood as depriving the other branches of the Government of the exercise of their respective functions of powers thereon, such as the authority to stop disorders and quell breaches of peace by the police and the authority on the part of the courts to take jurisdiction over possessory actions of an arising therefrom not involving, directly or indirectly, alienation and disposition."

This was reiterated in Bahayang vs. Maceren, 96 Phil. 390. In that case, the lower court suspended the hearing of a case accion publiciana pending the decision of the Director of Lands in the administrative case being heard by him. The Supreme Court overruled the lower court and pronounced that: "x x x an action for recovery of possession is an urgent matter which must be decided promptly to forestall breaches of the peace, bodily injury to person, mayhem, or perhaps loss of life. It is the duty of the court to act swiftly and expeditiously in cases of that nature."

The above doctrines were adopted in Molina vs. De Bacud, 19 SCRA 956 (1967). Categorically, the Supreme Court stated that "the authority given to the Lands Department over the disposition of public lands does not exclude the courts from their jurisdiction over possessory actions, the public character of the Land notwithstanding." In Rallos vs. Ruiz, Jr., 28 SCRA 331, in deciding a jurisdictional question, the Supreme Court said:

"Courts have jurisdiction over possessory actions involving public lands to determine the issue of physical possession (in forcible entry cases before the inferior court) on the better right of possession (in accion publiciana cases before court of first instance). And this is because the issue of physical possession raised before the courts is independent of the question of disposition and alienation of public lands which should be threshed out in the Bureau of Lands."

In National Development Co., et al. vs. Hervilla, G.R. No. 65718, June 30, 1987, the Supreme Court echoed the doctrine enunciated in Francisco vs. Secretary of Agriculture and Natural Resources, 121 SCRA 380 (1983); Pitarque vs. Sorilla, supra; and Rallos vs. Ruiz, Jr., supra, in the following tenor:

"It is now well settled that the administration and disposition of public lands are committed by law to the Director of Lands primarily, and ultimately to the Secretary of Agriculture and Natural Resources. The jurisdiction of the Bureau of Lands is confined to the determination of the respective rights of rival claimants of public lands or to cases which involve disposition and alienation of public lands. The jurisdiction of courts is limited to the determination of who has the actual, physical possession or occupation of the land in question (in forcible entry cases, before municipal courts) or, the better right of possession (in accion publiciana, in cases before Court of First Instance, now Regional Trial Court)."

On the other hand, the application of the principle of exhaustion of administrative remedies as a condition precedent to the filing of a juridical action is confined to controversies arising out of the disposition of public lands, (Geukoko vs. Araneta, 102 Phil. 706 (1957); Marukot vs. Jacinto, 98 Phil. 128 (1957), alienation of public lands (Rallos vs. Ruiz, Jr., supra) or to the determination of the respective rights of rival claimants to public lands (Pitarque vs. Sorilla, supra) and not to possessory actions involving public lands which are limited to the determination of who has the actual, physical possession or occupation of the land in question (Rallos vs. Ruiz,

Jr., supra).

Moreover, even conceding that the decision of the Bureau of Lands has not become final and executory and in fact the same has not been executed due to the timely filing of private respondent's motion for reconsideration and the pendency of the motion for new trial, it will be noted that in the manifestation dated May 23, 1973 (Rollo pp. 32-43), of petitioner he admitted that it was necessary for him to file the court case as it is not within the power of the Bureau of Lands to order the sheriff to remove private respondent's house and to turn over to the petitioner the possession of the portion he is claiming. Such power belongs only to the courts of justice.

It is thus clear that pending final adjudication of ownership by the Bureau of Lands, the Court has jurisdiction to determine in the meantime the right of possession over the land.

PREMISES CONSIDERED, (a) the instant petition is GRANTED; (b) the Order of the then Court of First Instance of Zambales, Branch I dismissing Civil Case. No. 720-0, dated May 11, 1971 is SET ASIDE; and (c) this case is REMANDED to the lower court for further proceedings. This decision is immediately executory.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

* Presided over by Judge Augusto M. Amores.

[1] As discussed in the aforementioned preliminary hearing.

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