

**FELIPE DIZON, REPRESENTED BY FLORDELIZA D. MAGKILAT,
PETITIONER, VS. LIDAWAY GUIDONGEN / JOSE AMON,
PROMULGATED: RESPONDENTS.**

Ponente: LAMPAS PERALTA, J.

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LAMPAS PERALTA, J.:

Before the Court is a petition for review filed under Rule 43, 1997 Rules of Civil Procedure, as amended, seeking to set aside the Decision dated December 16, 2013[1] in O.P. Case No. 09-K-587 of the Office of the President which dismissed petitioner's appeal from the Decision dated December 29, 2005[2] of the Secretary, Department of Environment and Natural Resources (DENR) affirming the Order dated December 12, 1994[3] of the Regional Executive Director, DENR-Cordillera Administrative Region (RED DENR-CAR) which reinstated and gave full force and effect to the Order of Execution dated October 2, 1975[4] issued by the Director of Lands.

THE ANTECEDENTS

The present case involves a 2.5-hectare public land designated as Lot No. 4954, Pls-245 located in Liwan, Tabuk, Kalinga-Apayao (formerly Mt. Province). On December 23, 1950, respondent Lidaway Guidongen filed Sales Application V-11658 over said land. In 1953, petitioner built a house on a portion of said land, and in 1954, he planted corn and fruit bearing trees on another portion of the land. Respondent Lidaway Guidongen filed a letter-complaint before the Bureau of Lands against petitioner for squatting on the land. On August 13, 1958, the Director of Lands ordered petitioner to vacate the premises. Meanwhile, respondent Lidaway Guidongen transferred his rights over the land to respondent Jose Amon. On January 11, 1974, petitioner filed a petition-protest against respondent Lidaway Guidongen's sales application, claiming possession of one (1) hectare of the land.[5] On October 3, 1975, the Director of Lands issued an Order directing execution of the Order dated August 13, 1958. The case was elevated to the RED DENR-CAR which issued Orders sustaining the aforementioned Order of execution.

The salient facts and proceedings were summarized in the Decision dated December 29, 2005 of the Secretary, DENR as follows:

"In 1953, Appellant (petitioner herein) erected a house on a portion of Lot 4954 Pls 245, located in Liwan, Tabuk, Mt. Province, covered by Sales Application V-11658 of Lidaway Guidongen (former Appellee). In 1954, Appellant planted corn and fruit bearing trees on another portion of said lot.

On June 19, 1954, Guidongen filed a letter complaint against appellant for squatting in the disputed area.

On July 31, 1954 the Land Investigator submitted an Investigation Report recommending that Appellant be ordered to vacate the premises of the lot in question.

On August 13, 1958, the Director of Lands issued an Order dismissing the appellant's claim over the disputed land and directing appellant to vacate the premises and remove his improvements introduced therein. Guidongen's application was however held in abeyance pending resolution of its conflict with another sales application, in the name of Pleasant Valley Farms, Inc.

On 01 September 1964, Appellee Jose Amon, transferee of Guidongen's rights to the lot, moved for the execution of the Order issued by the Director of Lands. No execution was however made as Appellant never allegedly received a copy of the said Order.

On 11 January 1974, Appellant filed a petition for reinvestigation.

On 02 October 1975, the Director of Lands issued an Order directing the execution of the Order dated 13 August 1958.

On 02 February 1976, an Investigation Report was issued recommending dismissal of Appellant's protest and the institution of criminal proceedings against Appellant for failure to comply with the Order of Execution.

On 13 April 1982, the Director of Lands issued an Order directing investigation of the case and setting aside the Order of Execution, dated 02 October 1975, and suspending the Order, dated 13 August 1958.

Pending resolution of the case, Civil Case No. 280 for Recovery of Possession was instituted by Appellee against Appellant's representatives before the Regional Trial Court (RTC) of Tabuk, Kalinga Apayao. The civil case was dismissed on 31 August 1989 based on Appellee's failure to exhaust administrative remedies.

On 12 December 1994, the RED DENR-CAR reinstated the Order of Execution dated 02 October 1975. On 06 April, 2001, Appellant filed a Motion for Reconsideration which was however denied (in an Order dated September 5, 2002) for being filed out of time.

On 20 August 2002, the RED issued a Certification of Finality declaring that the Order, dated 12 December 1994, subject of the Order of Execution, dated 02 October 1975, had become final and executory.

On 23 December 2002, the RED DENR-CAR issued another Order of Execution. Appellant again refused to comply with the execution and remained in the disputed area. The LMO issued a report recommending that proper action be instituted for failure of Appellant to comply with the Orders issued by RED."^[6]

On October 2, 2002, petitioner filed with the Office of RED DENR-CAR a notice of appeal^[7] of the Order dated September 5, 2002 to the Secretary, DENR.

In a Decision dated December 29, 2005^[8], the Secretary, DENR dismissed petitioner's appeal, holding that the RED DENR-CAR Order dated December 12, 1994 had become final and executory for failure of petitioner to file a motion for reconsideration or an appeal within the reglementary period.

Petitioner filed with the Office of the President an appeal from the Order dated December 29, 2005 of the Secretary, DENR. On December 16, 2013, the Office of the President rendered a Decision dismissing petitioner's appeal.^[9]

Hence, the instant petition for review, wherein petitioner ascribes the following errors allegedly committed by the Office of the President:

THE HONORABLE OFFICE OF THE PRESIDENT GRAVELY ERRED IN AFFIRMING IN TOTO THE DECISION OF THE OFFICE OF THE SECRETARY OF THE DENR CONSIDERING THAT:

(a) THE TECHNICAL RULES OF PROCEDURE PREVAILED OVER THE RIGHT OF THE APPELLANT TO DUE PROCESS;

(b) THE PETITIONER HAS A MERITORIOUS GROUND OF HER APPEAL AS THE DENR-CAR FAILED TO CONSIDER THAT THE SALE APPLICATION NO. 11658 OF LIDAWAY GUIDONGEN WAS NEVER APPROVED AND AWARDED TO HER AND JOSE AMON, A MERE ASSIGNEE OF GUIDONGEN, NEVER ACQUIRED ANY VESTED RIGHT OVER THE PROPERTY;

(c) THE PETITIONER WAS IN PRIOR PHYSICAL, ACTUAL, CONTINUOUS, ADVERSE, PUBLIC AND UNINTERRUPTED POSSESSION IN THE CONCEPT OF AN OWNER AND HIS FAMILY OVER A PORTION OF LOT NO. 4954, PLS-245 FOR 50 YEARS ALREADY.[10]

ISSUE

Whether the Office of the President erred in dismissing petitioner's appeal and in holding that the assailed Order dated December 12, 1994 of the RED DENR-CAR had become final and executory.

THE COURT'S RULING

To be sure, both the Office of the President and the Secretary, DENR are unanimous in ruling that the assailed RED DENR-CAR Order dated December 12, 1994 had become final and executory due to petitioner's failure to file a timely motion for reconsideration or appeal. Nonetheless, both the Office of the President and the Secretary, DENR also resolved the merits of petitioner's appeal and found that petitioner's alleged possession of the property cannot be the basis of granting him preferential rights over respondents. As enunciated by the Office of the President in its Decision dated December 16, 2013:

"In the case at bar, it is undisputed that more than half a century ago, that is, on 13 August 1958, the then Bureau of Lands issued an Order dismissing the claim of Felipe Dizon (appellant) over the land covered by the Sales Application No. V-11658 of Lidaway Gidongen. On motion of her successor-in-interest, Jose Amon, an Order dated 2 October 1975 was issued directing the District Land Office to execute said Order. This was, however, suspended in view of the Petition-Protest filed by Dizon which was treated as a petition for investigation. Upon further investigation, the RED, DENR-CAR issued the Order dated 12 December 1994 reinstating the Order of Execution. It was only about six (6) years, thereafter, that appellant filed his Motion for Reconsideration averring that he received a copy thereof only on 25 March 2001. Relying on the Certification issued by the OIC Postmaster of the Philippine Postal Corporation that appellant received the Order on 20 January 1995, the RED, DENR-CAR denied the Motion, which denied (sic) was affirmed by the DENR Secretary. After fifty-five (55) years, the litigation has to end.

Moreover, upon review of the appealed Decision, appellant's claim that the case was dismissed on purely technical grounds is untrue. Despite the finality of the Order dismissing his complaint, a reinvestigation was conducted and it was on the basis of this that the Order of Execution was reinstated. The DENR Secretary expressly declared that his office had gone over the records and found no reversible error on the part of the RED, DENR-CAR, appellant's possession and occupation over the disputed area having been in defiance of the lawful orders of the Department, hence, cannot be the basis of preferential rights"[11]

The Court finds no cogent reason to depart from the unanimous findings and ruling of the Office of the President and the Secretary, DENR.

It is axiomatic that the "perfection of an appeal in a manner and within the period prescribed by law is not only mandatory but jurisdictional, and failure to perfect an appeal has the effect of making judgment final and executory. The timely perfection of an appeal is a mandatory requirement, which cannot be trifled with a 'mere technicality' to suit the interest of party."[12]

Under Section 20, Chapter 4, Book VII, Executive Order No. 292 (Administrative Code of 1987), an aggrieved party has fifteen (15) days from receipt of the adverse decision of an administrative agency within which to file a motion for reconsideration or perfect an appeal. Thus:

SECTION 20. Perfection of Administrative Appeals.—(1) Administrative appeals under this Chapter shall be perfected within fifteen (15) days after receipt of a copy of the decision complained of by the party adversely affected, by filing with the agency which adjudicated the case a notice of appeal, serving copies thereof upon

the prevailing party and the appellate agency, and paying the required fees.

(2) If a motion for reconsideration is denied, the movant shall have the right to perfect his appeal during the remainder of the period for appeal, reckoned from receipt of the resolution of denial. If the decision is reversed on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal.

(3) The agency shall, upon perfection of the appeal, transmit the records of the case to the appellate agency."

DENR Administrative Order No. 87, series of 1990,[13] provides for the procedure for the perfection of appeals from the decisions/orders of the DENR Regional Offices to the DENR Secretary. Section 1, DENR Administrative Order No. 87 explicitly provides:

Sec. 1. Perfection of Appeals.

a) Unless otherwise provided by law or executive order, appeals from the decisions/orders of the DENR Regional Offices shall be perfected within fifteen (15) days after receipt of a copy of the decision/order complained of by the party adversely affected, by filing with the Regional Office which adjudicated the case a notice of appeal, serving copies thereof upon the prevailing party and the Office of the Secretary, and paying the required fees.

b) If a motion for reconsideration of the decision / order of the Regional Office is filed and such motion for reconsideration is denied, the movant shall have the right to perfect his appeal during the remainder of the period for appeal, reckoned from receipt of the resolution of denial. If the decision is reverse on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal."

Records show that petitioner received a copy of the RED DENR-CAR Order dated December 12, 1994 on January 20, 1995, but he filed a motion for reconsideration only on April 6, 2001, or after six (6) years from receipt of said Order dated December 12, 1994. Ineluctably, with the failure of petitioner to file a timely motion for reconsideration and appeal within the reglementary period, the RED DENR-CAR Order dated December 12, 1994 became final and executory. The RED DENR-CAR had in fact issued an Order dated December 23, 2002[14] for the execution of the Order dated December 12, 1994.

Section 15, Chapter 3, Book VII, Executive Order No. 292, explicitly provides:

SECTION 15. Finality of Order.—The decision of the agency shall become final and executory fifteen (15) days after the receipt of a copy thereof by the party adversely affected unless within that period an administrative appeal or judicial review, if proper, has been perfected. One motion for reconsideration may be filed, which shall suspend the running of the said period.

Petitioner's claim that it was only on March 25, 2011 when he received a copy of the RED DENR-CAR Order dated December 12, 1994, is readily belied by the certification by the OIC Postmaster of the Philippine Postal Corporation, Rizal, Kalinga stating that the Order dated December 12, 1994 was received by petitioner on January 20, 1995.[15] Verily, petitioner's bare denial of receipt of the Order cannot prevail over the certification of the postal officer whose duty is to send notices, and therefore, has in his favor the presumption of regularity in the performance of official duty.

Apropos is *Mindanao Terminal and Brokerage Service, Inc. v. Court of Appeals*[16], wherein it was held:

"As between the claim of non-receipt of notices of registered mail by a party and the assertion of an official whose duty is to send notices, which assertion is fortified by the presumption that the official duty has been regularly performed, the choice is not difficult to make. As shown in the records, the postmaster included in his

certification the manner, date and the recipient of the delivery, a criterion for the proper service of judgment which this Court enunciated in *Santos v. Court of Appeals*, viz:

'Clearly then, proof should always be available to the post office not only of whether or not the notices of registered mail have been reported delivered by the letter carrier but also of how or to whom and when such delivery has been made. Consequently, it cannot be too much to expect that when the post office makes a certification regarding delivery of registered mail, such certification should include the data not only as to whether or not the corresponding notices were issued or sent but also as to how, when and to whom the delivery thereof was made.'

Then again, well settled is the doctrine that "a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land." [17] The only exceptions to this doctrine of immutability of judgment are (i) correction of clerical errors; (ii) making of so-called nunc pro tunc entries which cause no prejudice to any party; (iii) when the judgment is void; and, (iv) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable. [18] None of these exceptions is extant in the present case.

In any event, even if the present case is resolved on its merits, the Court still finds no cogent basis to reverse the unanimous findings of the Office of the President and the Secretary, DENR that petitioner has no preferential right over any portion of Lot No. 4954, Pls-245 because his possession and occupation thereof was in defiance of the lawful orders of the DENR.

There is no denying that the Director of Lands had dismissed the claim of petitioner over the subject lot but only after conducting a reinvestigation. In fact, petitioner had long been ordered to vacate the subject premises and to surrender peaceful possession thereof to respondent Jose Amon, as per the Director of Lands Order of Execution dated October 2, 1975 [19]. On December 12, 1994, the RED DENR-CAR had ordered for the enforcement of said order of execution. Petitioner's possession and occupation of the subject lot having been found unlawful, his claim of possession over the same cannot be the basis of any right. As the Secretary, DENR Secretary stressed in his Decision dated December 29, 2005, "[w]hatever possession and occupation Appellant has over the disputed area for the past years has been in open defiance of the lawful order of the Department. Such possession cannot be the basis of giving Appellant preferential right to the disputed area." [20]

Petitioner further contends that respondent Lidaway Guidongen's act of assigning his rights over Sales Application V-11658 to respondent Jose Amon constitutes violation of Section 29 [21], Commonwealth Act No. 141 (Public Land Act) prohibiting the sale of a property subject of a sales patent pending the approval of the sales application. It suffices to state that this is a non-issue and has no bearing on petitioner's case. It does not defeat the unanimous findings of the Office of the President and the Secretary, DENR that petitioner's possession of the land had been in defiance of the lawful orders of the DENR and cannot be the basis of preferential rights over the property.

In sum, the present case calls for the application of the well-settled rule that factual considerations relating to lands of the public domain properly rest within the administrative competence of the Director of Lands and the DENR. Findings of administrative agencies, which have acquired expertise because of their jurisdiction, are confined to specific matters and must be accorded respect, if not finality, by the courts. [22]

WHEREFORE, the present petition for review is DISMISSED for lack of merit. Accordingly, the assailed Decision dated December 16, 2013 of Office of the President is AFFIRMED.

SO ORDERED.

Acosta, and Garcia-Fernandez, JJ., concur.

[1] pp. 7-10, Rollo.

[2] pp. 44-48, Id.

[3] pp. 39-41, Id.

[4] p. 74, Id.

[5] p. 20, Id.

[6] pp. 44-46, Id.

[7] pp. 67-68, Id.

[8] pp. 44-48, Id.

[9] pp. 7-10, Id.

[10] p. 24, Id.

[11] p. 9, Id.

[12] Co Say Coco Products Phils., Inc. vs. Baltasar, G.R. No. 188828, March 5, 2014.

[13] Regulations Governing Appeals to the Office of the Secretary from the Decisions / Orders of the Regional Offices, dated December 28, 1990.

[14] pp-81-83, Id.

[15] p. 42, Rollo.

[16] G.R. Nos. 163286, 166025 & 170269, August 22, 2012, 678 SCRA 622.

[17] NHA vs. Court of Appeals, G.R. No. 173802, April 7, 2014.

[18] Gadrinab vs. Salamanca, G.R. No. 194560, June 11, 2014.

[19] p. 74, Id.

[20] p. 48, Rollo.

[21] Section 29. After title has been granted, the purchaser may not, within a period of ten years from such cultivation or grant, convey or encumber or dispose said lands or rights thereon to any person, corporation or association, without prejudice to any right or interest of the Government in the land: Provided, That any sale and encumbrance made in violation of the provisions of this section, shall be null and void and shall produce the effect of annulling the acquisition and reverting the property and all rights thereto to the State, and all payments on the purchase price theretofore made to the Government shall be forfeited

[22] Silverio, Sr. vs. Marcelo, G.R. Nos. 184079 & 184490, April 17, 2013.

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