

**REPUBLIC OF THE PHILIPPINES (DIRECTOR OF FORESTRY),
PETITIONER, VS. HON. ENRIQUE MAGLANOC, IN HIS CAPACITY AS
PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF QUEZON,
COMMISSIO...**

G.R. No. L-20397. April 29, 1966

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is a petition of the Director of Forestry, on behalf of the Republic, to annul two orders and one decision of the Quezon (Tayabas) Court of First Instance.

The first order (dated April 21, 1961) reads, "upon a verified petition filed by Eustacio de los Reyes, with notice to the Solicitor-General, and for the reasons therein stated, and there being no opposition, the order of general default and decision of this Court dated May 22, 1922, declaring Lot No. 20 as public land, are hereby set aside in so far as the movant and said lot are concerned; the answer for Lot No. 20, Aurora Cadastre, filed by the movant is admitted; and Deputy Clerk of Court, Eleno M. Joya authorized to receive the evidence of the movant, and to submit same thereafter to the Court".

The decision dated May 26, 1961, rendered after submission of evidence, adjudicated Lot No. 20 to Eustacio de los Reyes, on the basis of the following statement of facts:

"The evidence presented by the movant in the hearing is to the effect that Gregorio de los Reyes had been in possession as owner of said lot No. 20 since the year 1912; that on or about 1917, Gregorio de los Reyes gave the property to his son, the herein claimant Eustacio de los Reyes, who took over the possession of the property; that the property is a pasture land; that the claimant is the actual occupant thereof; that the land is declared for taxation purposes; that there is no encumbrance affecting the land; that the claimant's possession of the said lot and that of his predecessor in interest has been continuous, public, open, peaceful, absolute, exclusive, adverse to the whole world for more than thirty years and in the concept of owner."

The second order (dated June 28, 1962), denies the petition for relief from the above decision, and for re-opening of the case, which petition was presented by the Bureau of Forestry in April, 1962.

Now this petition for certiorari filed before us October 19, 1962, rests on the allegation that the respondent judge had abused his discretion in issuing the first order of April 21, 1961, and the subsequent decision of May 26, 1961, and in refusing to set them aside despite the fact that they had been obtained "by means of fraud, misrepresentation and deceit on the part of Eustacio de los Reyes". Such deception allegedly consisted of:

(a) Not having furnished a copy of the petition to the Director of Forestry who had the administrative jurisdiction, supervision and control over the land in question, * * *

(b) By alleging that claimant-movant was not able to file his claim and to present evidence during the first cadastral hearing of this lot in 1922, when in truth and in fact, claimant-movant's predecessor-in-interest

Gregorio de los Reyes, filed his claim and presented evidence * * *.

(c) By alleging that his possession over this property is in the concept of an owner, when the same claimant-movant knows very well that this particular property is the same property leased to him by the herein petitioner-movant under Pasture Permit * * *

(d) Allegations that the land in question, Lot No. 20, is uncontested when in truth and in fact, claimant-movant and his counsel knows that the entire lot has been leased to claimant-movant on December 20, 1956.

Required to answer this certiorari petition, the respondents denied the allegations of fraud, offered some explanations, and raised the defense that petitioner should have appealed the order (June 28, 1962) denying his petition for relief and reopening; that such order is now final; and that certiorari does not lie where the remedy by appeal has been lost, because said remedy can not take the place of an appeal.

We consider this defense to be meritorious. Time and again we have dismissed petitions for certiorari to annul decisions or orders which could have, but have not, been appealed.

Indeed, the very reasons alleged in the petition for relief submitted to the Quezon Court are the same reasons now submitted in support of this special remedy. And to pass on them now, would be a review of an order which has already become final.

It may be stated here that the petition to set aside in 1961 the decree of the year 1922, could be, and was granted by the decision of May 1961, under the benevolent terms of Republic Act No. 931. So, contrary to the petitioner's contention, it was unnecessary to furnish him copy of Eustacio's petition inasmuch as said Act only required service thereof to the Solicitor-General, which had been admittedly made.

As to the other untrue manifestations—(b), (c), and (d)—it is now too late to discuss them, because they were the same reasons advanced before the Quezon (Tayabas) court in the motion for relief, which were overruled by the order of June 1962; and this was not appealed. Besides, they run counter to the findings of fact made in the final decision of May 26, above quoted.

This petition must, consequently be denied, as it is denied. The injunction heretofore issued is dissolved.

Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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