

DIRECTOR OF LANDS AND DIRECTOR OF FORESTRY (FOREST DEVELOPMENT), PETITIONERS, VS. COURT OF APPEALS AND JOSE CASTRO, RESPONDENTS.

G.R. Nos. L-50674-75. October 09, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

These cases are about the reconstitution of a prewar decision in two land registration cases. Albina Molintas, Pulmano Molintas and their mother, brothers and sisters filed in 1938 in the Court of First Instance of Baguio and Benguet two applications for the registration of certain lots with a total area of 61.7 hectares, Psu-100666 and Psu-15440, located in Barrio Beckel, La Trinidad, Benguet (36 O.G. 1409 and 1437).

The applications were filed by lawyer Sinai C. Hamada. They were opposed by the Directors of Land and Forestry, Gold River Mining Co., Inc., Paran Dayotao, Bernabe Oblas, Locloc and others (Land Registration Cases Nos. 149 and 150, GLRO Records Nos. 52538 and 52539; Exh. J and X).

The original records of the two cases were lost during the war. There is no question that no decree was issued in the said cases and that no Torrens titles were obtained by the Molintas family.

The bone of contention now is whether, as contended by the Government, Judge Catalino Buenaventura denied the applications for registration in a 1939 decision, or whether, as pretended by Jose Castro, Judge Jose R. Carlos granted the said applications in a supposed 1941 decision.

For more than fifteen years since the outbreak of the war, the Molintas family did absolutely nothing to reconstitute the records of the two cases.

Then, on March 18, 1959, the Molintas brothers and sisters named Magasia, Albina, Vencina (illiterates), Piscong, Sergio and Pedro, all surnamed Molintas, executed a power of attorney authorizing their brother Pulmano to enter into negotiations for the "reconstruction" of the land registration proceeding in Case No. 149 (Exh. B).

On that same date, Pulmano Molintas entered into an agreement with Jose Castro, a private land surveyor, whereby the Molintas family bound itself to cede to Castro forty percent of the land involved in Case No. 149 as his compensation for the "reconstruction" of the survey and registration of the said land. Castro would shoulder all the expenses (Exh. C).

Albina Molintas in a power of attorney dated March 22, 1959 authorized Castro to "reconstruct the registration papers" pertaining to the second case, Case No. 150, involving the land surveyed as Psu-15440, with an area of 26.4 hectares, and giving Castro forty percent of the land as his compensation (Exh. D).

It should be noted that in the 1959 agreements between the Molintas family and Castro no reference whatsoever was made to any decision rendered by Judge Carlos directing the registration of the said lands in the names of Pulmano Molintas and Albina Molintas.

On May 16, 1959, the land claimed by Albina Molintas in Case No. 150 was resurveyed as Psu-181571 and a second lot with an area of 9.1 hectares was added so that the expanded area claimed by Albina has an area of 35.5 hectares (Exh. H).

It was only on February 16, 1963 when Castro filed in the Court of First Instance of Baguio and Benguet a petition for the reconstitution of the records of Cases Nos. 149 and 150. He filed the petition as owner of forty percent of the lands involved in the two cases. The Molintas family did not join him in that petition. Castro prayed that sixty percent of the lands be registered in the names of Pulmano and Albina and forty percent in his name.

Castro annexed to his petition a copy of the 1935 plan Psu-100666 for the two lots involved in Case No. 149. But for the lot involved in Case No. 150, with an area of 26.4 hectares, Psu-15440 (prewar survey), he annexed to his petition a 1959 survey plan, Psu-181571, which, as noted above, covers two lots with a total area of 35.5 hectares (Exh. H). The technical descriptions for the said two lots were prepared by Castro as private land surveyor based on a 1959 survey. The area of the land claimed in Case No. 150 was increased from twenty-six to thirty-five hectares.

That unwarranted augmentation of the area of the land involved in Case No. 150 should be sufficient to alert a court of justice to the fraudulent character of Castro's petition for reconstitution in which the original applicants for registration did not join.

But what is more remarkable and unusual is that Castro annexed to that petition a supposed joint decision rendered by Judge Carlos on June 17, 1941. In that decision Judge Carlos supposedly confirmed the title of Pulmano Molintas to the two lots covered by Case No. 149 and the title of Albina Molintas to the lot involved in Case No. 150 (p. 34, Record on Appeal).

The petition for reconstitution was opposed by the Directors of Land and Forestry. They alleged in their opposition that in a decision dated December 5, 1939 Judge Catalino Buenaventura dismissed the applications in Cases Nos. 149 and 150 (pp. 80-86, 116-18, Record on Appeal).

That opposition gave rise to the issue of whether Cases Nos. 149 and 150 were decided or closed cases as to which reconstitution of records would not be necessary.

David V. Avelino alleged in his opposition that Albina Molintas had ceded to him in 1960 forty percent of the 26-hectare land involved in Case No. 150 (p. 52, Record on Appeal).

Paran Dayotao, et al. in their opposition alleged that the lands involved in Cases Nos. 149 and 150 were sold on December 18, 1961 by Pulmano Molintas and Albina Molintas to Jesus S. Yujuico and are the object of Land Registration Case No. N-86, LRC Record No. 22180, Yujuico vs. Director of Lands (p. 65, Record on Appeal).

The National Power Corporation alleged in its opposition that it had bought portions of the lands in question from Pulmano and Albina and that it has been occupying those portions as the site of its Beckel Hydroelectric Substation. Moreover, other portions were granted to it for the exercise of its right-of-way easements (pp. 68-71, Record on Appeal).

After hearing, Judge Feliciano Belmonte dismissed the petition for reconstitution. Castro appealed to the Court of Appeals which in its decision promulgated on May 16, 1979 reversed the trial court's decision and ordered the reconstitution of the records of Cases Nos. 149-R and 150-R in accordance with Castro's evidence (Per Justice Sundiam, with Justices Andres Reyes and Samuel F. Reyes, concurring). The Government appealed to this Court. Castro did not file any appellee's brief.

The decision of the Court of Appeals is not supported by the evidence. That Court ignored the evidence. The

record conclusively shows that this reconstitution proceeding is a brazen, device or machination for landgrabbing and is a fool-hardy attempt to misappropriate public forestal and mineral lands by means of a forged 1941 decision supposedly adjudicating the lots in question to the Molintas family.

Reconstitution of judicial records under Act No. 3110 refers only to pending judicial proceedings (*Yatco vs. Cruz*, 116 Phil. 1380; *Cenido vs. Court of Appeals*, 103 Phil. 1158). The Government's evidence in this case indubitably proves that Land Registration Cases Nos. 149 and 150 were no longer pending at the outbreak of the war. They were closed cases because they were decided by Judge Buenaventura on December 5, 1939. He dismissed the applications because the lots applied for were forestal and mineral lands. The appeal from his decision was not given due course.

Judge Buenaventura's decision denying the applications of the Molintas family is incontestably proven by a copy thereof which was furnished by the provincial fiscal of Baguio to the district forester of Baguio. That copy was preserved and presented in court. It bears the stamp of the district forester's office, showing that the said copy was received on January 26, 1940 (Exh. 7-f).

Patricio Perez, now a city judge of Baguio, who was the prewar assistant fiscal of Baguio and the Mountain Province, testified that he appeared in the Molintas land registration cases for the Directors of Lands and Forestry, that the cases were tried and decided by Judge Buenaventura and not by Judge Carlos and that he was positive that the said cases were terminated.

Judge Perez declared that the copy of Judge Buenaventura's decision, Exhibit 7, is authentic and that the latter prepared his decision in Manila because he was only on detail in Baguio (198 and 199 tsn).

Although the said cases were in the sala of Judge Carlos, who was the district judge for Baguio and the Mountain Province, it was Judge Buenaventura who was assigned to try and decide the same.

Secretary of Justice Jose Abad Santos in Administrative Order No. 83 dated July 8, 1939 designated Judge Buenaventura (then a Judge-at-large) "to hold court at Baguio, Mountain Province, beginning August 10, 1939, or as soon thereafter as practicable, for the purpose of trying all kinds of cases, and to enter final judgment therein" (37 O.G. 2963-4). The Molintas cases were tried on September 11 and 12, 1939 (Exh. N).

Attorney Hamada, the lawyer of applicants Pulmano Molintas and Albina Molintas, produced a carbon copy of his memorandum dated October 7, 1939 and also an undated copy of his "memorandum for motion of reconsideration" (Exh. 2 and 3).

In the signed copy of his "Exception and Motion for New Trial" dated January 31, 1940, he made specific reference to the decision dated December 5, 1939 (Exh. 4).

In the signed carbon copy of his "Motion for Reconsideration of Order Disallowing Bill of Exceptions" dated March 6, 1940, Attorney Hamada mentioned the fact that the trial court had not given due course to his appeal (Exh. 5).

Hamada also produced a carbon copy of the order of Judge Carlos dated March 30, 1940 wherein Hamada's motion for reconsideration was denied and wherein it was categorically stated that the decision in the said cases had become final and executory and for that reason the trial court could not approve the record on appeal (Exh. 6). That same order was identified as genuine by Fernando Romero, the prewar clerk of court.

Hence, if Judge Buenaventura's decision became final in the early part of 1940 because the Molintas family failed to appeal seasonably from his decision, the said land registration proceedings were closed proceedings and Judge Carlos could not have decided again those same cases in 1941. Moreover, being closed cases, the reconstitution of

the records thereof was not authorized under Act No. 3110 which covers only pending judicial proceedings.

Lawyer Hamada was positive that the copy of the decision received by the district forester from the office of the provincial fiscal of Baguio is an exact copy of Judge Buenaventura's decision (Exh. 7). He remembered distinctly that the applications were denied. He did not have a copy of the decision because his copy was delivered to Pulmano Molintas.

When the supposed unsigned decision of Judge Carlos dated June 17, 1941 (Exh. G) was shown to Hamada and examined by him for a few minutes, he unhesitatingly branded it as "a complete falsity". He added: "This supposed decision was never rendered by the Court in these land registration cases" (150 tsn. See *Mendoza vs. De Castro*, 107 Phil. 948).

Asked to justify his pronouncement that Exhibit G is a forgery, Hamada declared that that decision mentions an octogenarian named Parang Ducayag as having testified as a witness. Hamada declared that Ducayag could not have been more than fifty years of age in 1941 because he personally knows Ducayag.

Hamada said that he knows the language of Judge Carlos and the language in the supposed decision (Exh. G) "is very far from the language of the decision of Judge Carlos" (151 tsn). Hamada further observed that the supposed decision contains typographical errors. He knows that Judge Carlos was meticulous in preparing his decisions and orders and he would have noticed the said clerical errors before signing the decision.

Hamada recalled that, as correctly stated in Judge Benaventura's decision, there was an ocular inspection of the lots sought to be registered. The judge, the fiscal and Hamada motored to Beckel where the lands were located.

Asked to comment on the testimony of Miguel O. Dumpit, the prewar interpreter in the sala of Judge Carlos, that Exhibit G was the decision of the said judge in the said land registration cases, Hamada said that he did not know how Judge Carlos could have rendered a decision in the cases which he never tried and that Dumpit was referring to a nonexistent decision of Judge Carlos (160 tsn).

That is not all. A perusal of the alleged decision of Judge Carlos (which does not bear the court's dry seal) reveals some discrepancies which militate against its authenticity:

1. In the opening statement of the decision, it is stated that Magsia, Sergio, Albina, Venancia, Piscong and Pedro, all surnamed Molintas and their mother Dingbe, withdrew their opposition to the application of Pulmano Molintas (p. 30, Record on Appeal; Exh. G).

That statement is inconsistent with the opening paragraph of the notice of hearing in Case No. 149, as published in 36 O.G. 1409, wherein it is stated that the applicants were Pulmano, Magsia, Sergio, Albina, Piscong, Pedro and Vencina (not Venancia) and their mother Dinbe, all surnamed Molintas, and not Pulmano alone, Magsia Molintas, et al. were not oppositors. They were applicants. Lawyer Hamada also noticed that mistake in Exhibit G.

2. The dispositive part of Judge Carlos' supposed decision, wherein the application of Pulmano Molintas was confirmed, is unwarranted because, as already stated, Pulmano was not the sole applicant. His brothers and sisters were his co-applicants. The opening statement in the decision and the title of the case were intended to sustain that dispositive portion wherein it was erroneously assumed that Pulmano was the sole applicant. These two discrepancies are sufficient to cast doubt on the authenticity of Judge Carlos' decision, Exhibit G. How that copy came to be in the possession of Piscong Molintas, who did not testify, was never explained in this case.

3. In that decision (Exh. G), it is made to appear that Judge Carlos cited *Susi vs. Ramos* and *Director of Lands*, 46 Phil. 626 as authority for the ruling that "an open, continuous (sic) and adverse possession of such land for at least

from July 26, 1894, is sufficient to confer upon the (sic) occupant effective title of ownership thereto which is registrable (sic) under the Land Registration Act (Chapter IV, Act 496, as amended by Act No. 2874 and Commonwealth Act No. 141)" (p. 264 or 20, Rollo of Exhibits).

There is no such case in Volume 46. What is reported in Volume 46, page 626 is the case of *People vs. Sleeper*. Maybe, the person who typed Exhibit G had in mind the case of *Susi vs. Razon and Director of Lands*, 48 Phil. 424 which contains this finding:

"In favor of Valentin Susi, there is, moreover, the presumption juris et de jure established in paragraph (b) of section 45 of Act No. 2874, amending Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the public domain openly, continuously, exclusively and publicly since July 26, 1894, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act." (on p. 428).

The foregoing holding is different from what Judge Carlos stated in his supposed decision, Exhibit G, where reference is made to "Chapter IV, Act 496, as amended by Act No. 2874 and Commonwealth Act No. 141". Act No. 496 or the Land Registration Law is not divided into chapters. Nor did the Public Land Laws, Act No. 2874 and Commonwealth Act No. 141, amend Act No. 496.

4. Then, again, Judge Carlos is supposed to have cited the ruling (and we quote) that "although the Government under the provisions of Act 1148, may by reservation decide for itself what portions of the public land shall be considered forestry land, it can do so only where private interest have (sic) not previously intervened (*Ramos vs. Director of Lands*, 39 Phil. 175)" (Exh. G, pp. 33-34, Record on Appeal).

There is no such ruling in the *Ramos* case which does not cite Act No. 1148 at all. The said ruling is found in the syllabus of *Ankron vs. Government of the P. I.*, 40 Phil. 10 which cites Act No. 1148.

Judge Carlos is thus made to appear to be as incompetent and reckless as the fabricator of his supposed 1941 decision, Exhibit G.

5. The spurious character of the alleged decision of Judge Carlos is likewise proven by another spurious evidence of Castro which is the alleged order of Judge Carlos dated July 29, 1941 for the issuance of a decree. That order makes an erroneous reference to the decision "under date of June 12, 1941". The alleged decision is dated June 17, 1941 (pp. 34--35, Record on Appeal; Exh. O).

The foregoing considerations lead to the unavoidable conclusion that the petition for reconstitution is utterly unfounded and fraudulent, a deception sought to be foisted on the courts of justice. Castro sought to reconstitute a fictitious decision and order for the issuance of a decree.

WHEREFORE, the decision of the Court of Appeals is reversed and set aside. The trial court's decision is affirmed. Costs against Jose Castro.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

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