

**MARCOS ABIG, ET AL., PETITIONERS AND APPELLANTS, VS. EUSEBIO CONSTANTINO, ET AL., RESPONDENTS AND APPELLEES.***G.R. No. 12460. May 31, 1961*

Ponente: DIZON, J.

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On February 11, 1946 Eusebio Constantino filed a homestead application (No. D-366; E-D-385) in relation to a parcel of land of about 24 hectares in area, located in Barrio Nangalisan, Solana, Cagayan. Said application was a reconstitution of a previous one filed in 1924 which was lost during the last war together with other portions of the record of the case. Constantino's original application was given due course as H. A. No. 401426 and the land applied for was surveyed in 1930 by a surveyor of the Bureau of Lands, but in view of the fact that when the 1946 application (reconstituted) was filed there appeared to be some doubt as to the area of the land applied for, a relocation survey was made by another surveyor of the same Bureau. It was during this relocation survey that Marcos Abig, Honorata Cagumbay and Lino Pagulayan claimed different portions of the land applied for. The issues raised by their adverse claims were duly investigated by the Bureau of Lands before whom the parties presented evidence supporting their respective claims.

Constantino's evidence consisted principally of his testimony, corroborated by that of Sofronio Balubay, Proceso Andres and Timoteo Miguel. For Marcos Abig the evidence consisted of his own testimony, corroborated by that of his co-appellant, Lino Pagulayan, and by that of Felix Baltazar. For appellant Cagumbay the testimonial evidence consisted of her own testimony, corroborated by that of her co-appellant Pagulayan. She also presented as evidence in her favor tax declaration No. 26144 (Exh. B) in the name of her father, Domingo Cagumbay, issued on February 27, 1941, with taxes collectible—that is, unpaid—from 1938. The evidence of Pagulayan consisted also of his own testimony, corroborated by that of Severo Balubay and Isabelo Camaya.

The gist of the evidence in support of the claims of Abig, Cagumbay and Pagulayan is that they had been in possession of the portions respectively claimed by them since 1921; that since then they had cleared portions thereof and cultivated the same as their own.

The Bureau of Lands also found that in 1946 Constantino filed an action for unlawful detainer against Marcos Abig in the Justice of the Peace Court of Solana, Cagayan, and an action to quiet title in the Court of First Instance of said province against Lino Pagulayan, Honorata Cagumbay and others. After due trial, decision was rendered in the first case in favor of Constantino. Abig appealed to the Court of First Instance of Cagayan where the case was docketed as Civil Case No. 108, but this appeal was subsequently abandoned, and the second case was dismissed, because the parties had agreed in writing, among other things, to respect aid to submit themselves to the decision of the Bureau of Lands and the Department of Agriculture and Natural Resources on the homestead application of Constantino and the opposition thereto filed by Abig, Pagulayan and Cagumbay.

Another finding made by the Bureau of Lands was that the land in question was within the vast area which the late Gabriel Lasam sought to register in his name in G.L.R.O. Rec. Case No. 36871; that in the notice of hearing

published in 1930, the names of appellants did not appear among those taking part in the proceedings as claimants—a circumstance not properly explained by them in spite of their claim that they had been in possession of the portions respectively claimed by them since 1921.

After a thorough consideration of the evidence presented by the parties, the Bureau of Lands overruled the opposition of Abig, Cagumbay and Pagulayan, and gave due course to the homestead application of Constantino. The decision further ordered the oppositors to vacate the areas disputed by them within 60 days from notice of decision.

The oppositors appealed to the Department of Agriculture and Natural Resources where, after proper proceedings, decision was rendered on June 14, 1954 confirmatory of the one rendered by the Bureau of Lands. The motion for reconsideration filed by the oppositors with the Department of Agriculture and Natural Resources was denied. Thereafter they filed a petition for certiorari with this Court, but the same was dismissed without prejudice to filing another petition in the proper Court of First Instance. Subsequently, that is, on July 3, 1956 the oppositors—hereinafter referred to as appellants—filed a petition for certiorari with the Court of First Instance of Cagayan against Eusebio Constantino, the Director of the Bureau of Lands and the Secretary of Agriculture and Natural Resources, alleging therein that the latter two had decided the land case mentioned therein with grave abuse of discretion amounting to lack of jurisdiction.

The respondents—hereinafter referred to as appellees—denied that the decision sought to be reviewed was rendered contrary to law and the evidence presented by the parties and, by way of affirmative defenses, alleged: (1) that the land subject matter of said decision was public land under the exclusive jurisdiction of the Director of Lands and the Secretary of Agriculture and Natural Resources to administer and dispose of, in accordance with the Public Land Law; (2) that the decision sought to be reviewed had already become executory when the action for certiorari was filed; (3) that the findings of fact made in said decision by the Director of Lands and affirmed by the Secretary of Agriculture and Natural Resources are conclusive and may not be reviewed or altered by the courts pursuant to Section 4, Commonwealth Act No. 141, as amended.

The case was submitted for decision upon the pleadings and some documentary evidence presented by the parties, and thereafter the court rendered the appealed decision whose pertinent portion reads as follows:

"Es un hecho admitido por los recurrentes que la protesta de los aqui recurrentes, presentada en la Oficina de Terrenos, fué investigada, y que en dicha investigación las partes interesadas (recurrentes y recurridos) presentaron pruebas; que como resultado de dicha investigación, el Director de Terrenos desestimó la protesta de Marcos Abig y otros apelaron de dicha decisión para ante el Secretario de Agricultura y Recursos Naturales, y éste, previos los trámites legales, el 14 de Junio, 1954, dictó decisión desestimando la apelación de Marcos Abig y otros.

Los mismos recurrentes admiten en documentos presentados como prueba, que hubo investigación y que las partes interesados articularon sus respectivas pruebas. Si el Director de Terrenos dictó su decisión en el caso, basada en hechos, que el mismo creía que estaban establecidos por las pruebas, y las conclusiones de hecho del Director de Terrenos fueron confirmadas por el Secretario de Agricultura y Recursos Naturales, es evidente que dichos funcionarios estaban obrando de acuerdo con su discreción y mejor criterio, y sus conclusiones de hecho no pueden ser alteradas o modificadas por este Juzgado (Julian vs. Apostol, et al., 52 Phil., 422; Balela vs. Aquino, et al., 71 Phil., 69).

Es, pues, la conclusión del Juzgado de que el Director de Terrenos y Secretario de Agricultura y Recursos Naturales no obraron con grave abuso de su autoridad y discreción, al dictar sus respectivas decisiones. Si dichos funcionarios incurrieron en error, según pretende el recurrente; "in estimating the value of effect of evidence", tal error, si lo hubo, no puede constituir grave abuso de discreción.

Por tanto, el Juzgado dicta decisión, ordenando el sobreseimiento de la solicitud de certiorari, con las costas a cargo del recurrente." (pp. 146-147 rec.)

Appellants filed a motion for reconsideration of the above decision, but the same was denied for lack of merits, and thereafter, they took the present appeal.

The burden or crux of appellants' contention in this appeal is that the lower court should have issued the writ of certiorari prayed for and annulled the decisions rendered by the Bureau of Lands and the Department of Agriculture and Natural Resources, on the ground that the same were rendered with grave abuse of discretion. In this connection they claim that the lower court should have reviewed and reversed the findings of fact made by the Director of Lands and the Secretary of Agriculture and Natural Resources; that said court erred: (a) in not finding that the aforesaid public officials should have ordered the cancellation of the homestead application of Constantino for violation of Section 90, subsection (e) of Act No. 141; (b) in adopting the appealed decision of the Justice of the Peace to support their decision; (c) in not ordering the cancellation of the homestead application of Constantino, due to his failure to protest within six months from the entry of appellants into the land, as required by Section 5 of Administrative Order No. 6; (d) in holding that appellant Abig was a mere tenant of Constantino; and finally, (e) in not holding that the land applied for by Constantino does not embrace the areas occupied by appellants.

In this jurisdiction the law on certiorari, as an extraordinary legal remedy, is that it may issue only against boards, tribunals or officers exercising judicial functions upon a showing, firstly, that they acted without or in excess of their jurisdiction, or with grave abuse of discretion, and secondly, that the aggrieved party has no remedy by appeal nor any other plain, speedy and adequate remedy in the course of law. It has been held accordingly that a petition for certiorari, in order to succeed, must be based on jurisdictional grounds because, as long as the respondent acted with jurisdiction, any error committed by it in the exercise thereof will amount to nothing more than an error of judgment which may be reviewed or corrected only by appeal (*So Chu, et al. vs. Nepomuceno*, 29 Phil., 208; *De los Santos vs. Mapa*, 46 Phil., 791; *Castro vs. Peña*, 80 Phil., 488; *Gil vs. Gil*, 80 Phil., 791); that however erroneous a decision of a board, tribunal or officer exercising judicial functions may be, the same may not be reviewed judicially by certiorari (*Chua Ke et al. vs. Abeto*, 62 Phil., 539).

It is true that abuse of discretion is also a ground for the issuance of the writ of certiorari, but it has been held that not every error in the proceeding or every erroneous conclusion of law or of fact is an abuse of discretion (*De Gala vs. Cui*, 25 Phil., 522; *Government vs. Judge of First Instance etc.*, 34 Phil., 157); that for an abuse of discretion to justify a review by certiorari, the same must have been "grave abuse of discretion", which is taken to mean as such capricious and whimsical exercise of judgment as might be equivalent to lack of jurisdiction" (*Abad Santos vs. Province of Tarlac*, 61 Phil., 480; *Tan vs. People*, 88 Phil., 609; *Tavera Luna, Inc. vs. Nable*, 67 Phil., 340; *Alafriz vs. Nable*, 72 Phil., 278); and that errors in the appreciation of evidence may not be reviewed by certiorari because they do not involve any jurisdictional question (*Mujer vs. Court of First Instance of Laguna*, 35 Off. Gaz., 1384).

To the above legal considerations we must add that in *Urtua vs. Singson*, 59 Phil., 440, this Court held that a decision rendered by the Director of Lands and approved by the Secretary of Agriculture and Natural Resources upon a question of fact is conclusive and is not subject to review by the courts, in the absence of a showing that such decision was rendered in consequence of fraud, imposition or mistake other than error of judgment in estimating the value or effect of evidence. Elaborating upon said ruling this Court said in another case—that of *Alfara vs. Mapa et al.*, 95 Phil., 125; 50 Off. Gaz., [6] 2507:

"The philosophy behind this ruling is that if the decision of the Director of Lands on a question of fact is concurred in by the Secretary of Agriculture and Natural Resources, it becomes conclusive upon the courts

upon the theory that the subject has been thoroughly weighed and discussed and it must be given faith and credit, but not so when there is a disagreement".

In the present case appellants do not—in fact, can not—deny the authority and jurisdiction of the Director of Lands and the Secretary of Agriculture and Natural Resources to act upon the homestead application of Constantino and decide it on the basis of the evidence presented to the former by appellee and appellants, who opposed his application. It is clear, therefore, that the findings of fact made by the Director of the Bureau of Lands and approved by the Secretary of Agriculture and Natural Resources must be deemed conclusive and are not subject to judicial review by certiorari.

The above conclusion becomes more unassailable upon consideration of the circumstance that appellants are in estoppel, to attack the decision of the aforesaid public officials, for the reason that, as stated heretofore, the appeal of appellant Abig in the ejectment case (Civil Case 108 of the Court of First Instance of Cagayan) and the action to quiet title filed in the same court by Constantino against appellants Cagumbay and Pagulayan, were dismissed by said court upon petition of the parties themselves and on their formal assurance in writing that they had agreed to respect and submit to the decision of the Director of the Bureau of Lands and the Secretary of Agriculture and Natural Resources.

The only possible grounds upon which appellants may now be heard to complain is that the decisions of said public officials were "rendered in consequence of fraud, imposition or mistake other than error of judgment in estimating the value or effect of evidence", but the record shows that neither one of these possible grounds was invoked—much less proved—by them. All their contentions in this appeal may be reduced to the claim that the public officials above mentioned did not decide the case in accordance with the evidence. This, if true, would constitute mere error of judgment in estimating the value or effect of the evidence.

Regarding appellants' contention that appellee violated Section 90, subsection (e) of Act 141, we deem it sufficient for the purpose of this decision to quote the pertinent portion of the decision rendered by the Secretary of Agriculture and Natural Resources attached to the former's brief as Annex B:

"Under the first assignment of error, appellants contend that the application of Constantino should be rejected because he has violated the provisions of subsection E Section 90 of the Public Land Act which in effect exhorts the applicant not to allow anybody else to benefit from the land he has applied for. According to the appellants, Constantino allowed other persons to work on the land and enjoyed the produce thereof, a fact admitted by Constantino and testified to by his principal witness. We find this allegation unsustainable. The testimony alluded to was to the effect that Constantino had allowed his tenants to work on the land without giving him any share for the first three years but after that time said tenants were requested to pay 1/3 of their produce. These tenants happened to have worked on the land with Constantino at the inception of his occupancy thereof in 1919 and before he had applied for the land in question; that some of the tenants came to the land in 1927; that among them were claimants Marcos Abig and his father and they were assigned portions of the land already cleared by Constantino and his companions. Marcos Abig and his father were at once required to give 1/3 of their produce to Constantino. We are not convinced that such admission is fatal to the case of the appellee. It is our belief and conclusion that Marcos Abig and his father were merely croppers of Constantino in the true sense of the word. The status of Marcos Abig fulfills the legal definition of a cropper, as one who is employed to cultivate land, receiving as his compensation a share of the crops. He is not a tenant, for he has no estate in the land, but has been said to be as such a servant as if his wages were fixed and payable in money. Regarding the other helpers in the land who were allowed to work for three years without giving any share to the applicant they likewise can not be considered as exclusively enjoying the whole fruits of the land of the applicant. In the first place, they are not claiming the portions worked by them nor were they asserting claims adverse to the appellee, and in the second place, it has been proven that at the time they first entered and worked the land, the application of Constantino had not yet been approved. Were the application of

Constantino already approved, and his tenants asserted adverse claim thereto, a liberal interpretation of the law might embrace the case and sustain a holding that the appellee has, to a certain extent, really violated sub-section E, Section 90, of Act 141. But this is not the case as already pointed out above."

Regarding appellants' other contention that the lower court erred in not finding that the Bureau of Lands and the Department of Agriculture and Natural Resources should have ordered the cancellation of appellee's homestead application because he did not protest against their occupation of their disputed portions within six months from the illegal entry, we deem it sufficient likewise to quote the following from the decision of the same Department attached to appellants' brief as Annex B:

"The fifth assignment of error is the height of absurdity. The appellants contend that because Constantino did not protest against their occupation of the disputed portions, his application should have been rejected in accordance with Section 5, of Land Administrative Order No. 6. But why would Constantino protest against such occupancy when the said appellants were his croppers or laborers in his land. It is however of record, that the moment the appellants, particularly Marcos Abig, had failed to pay their 'canon', the appellee filed the necessary action in Court from which he obtained a favorable decision a factor which proves once more that the appellants were not in possession of the land since 1921."

Lastly, appellants claim that the lower court erred in not making a finding that the respondents, Director of Lands and Secretary of Agriculture and Natural Resources, based their decisions exclusively on the decision rendered by the justice of the peace court of Solana in the ejectment case instituted by appellee against appellant Abig is clearly without merit, the record showing overwhelmingly that said decision was only one of several factors taken into account by said officials when they rendered their respective decision.

In view of the conclusion we have reached, as stated above, we find it unnecessary to consider the other errors allegedly committed by the lower court.

Wherefore, the appealed decision is hereby affirmed, with costs.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, and Paredes, JJ., concur.

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