

ROBERT DENOPOL, PETITIONER AND APPELLANT, VS. THE DIRECTOR OF LANDS, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. 13829. November 28, 1959

Ponente: BENGZON, J.

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BENGZON, J.:

Before the Bureau of Lands, Roberto Denopol and Emilio Junto disputed over the possession and cultivation of a 29-hectare public land in Dimataling, Zamboanga del Sur. After proper investigation, the Director of Lands allotted 24 hectares to Junto (by homestead) and 5 hectares to Denopol (by sales application). The latter appealed to the Secretary of Agriculture and Natural Resources, who in due course confirmed the Director's award.

To the courthouse of that province resorted Denopol by petition for certiorari. However, realizing that the award rested on the finding of Junto's prior possession of and cultivation of the land apportioned to him, and that such factual finding of said administrative officials was final under the law, the judge declined to interfere, denied the petition.

Now we have this appeal, wherein Denopol imputes abuse of discretion to those executive officers, because according to the evidence before them his possession antedated Junto's.

This appeal may not be sustained.[1] Courts administer justice in accordance with the provisions of the statute applicable to the case; and sec. 4 of Commonwealth Act No. 141 expressly provides that decisions of the Director of Lands as to questions of fact involving lands of the public domain are final and conclusive when approved by the Secretary of Agriculture and Natural Resources. In compliance with this directive, courts have uniformly held the factual determination of said officers to be conclusive upon them. They, however, recognize exceptions by general principles of jurisprudence; fraud, imposition or mistake other than error in estimating the value or effect of the evidence (*Ortua vs. Singson Encarnacion*, 59 Phil., 443).

Undoubtedly aware of the above views, petitioner Denopol asserted in the court below collusion between Junto and the investigators of the Bureau of Lands; but he failed to prove such assertion. He also alleged that in such investigation, he had not been adequately represented by counsel nor given sufficient notice. On this point the Hon. Mateo Canonoy, District Judge, said that according to the record, there was sufficient notice, and although "it is true that he was not represented by a qualified member of the bar but he was assisted by a "procurador" or friend who served as his counsel and who cross-examined the witnesses of his opponent. The herein respondent -was not also represented by a qualified member of the bar. Be that as it may, the absence of counsel to assist any or both parties is not reversible error, since this was only an administrative proceeding."

We have no hesitation to indorse His Honor's view above stated.

In this appeal, the principal contention of Denopol is that "the conclusions drawn from the facts found by the Director of Lands confirmed by the Secretary of Agriculture and Natural Resources are erroneous and not warranted by law." Then he proceeds at length to challenge this finding or that statement of the said officers,

alleging lack of evidence or citing adverse testimony, inferences and exhibits. As indicated, in the Ortua case (supra) errors in estimating the value or effect of the evidence will not be gone into a proceedings like this. He may not, therefore, expect us to rule on each and every flaw he discovers upon reading the evidence before those officials. It should be proper at this point to quote what the Department Head declared:

"* * * Roberto Denopol presented his motion for reconsideration and reinvestigation with the Director of Lands who denies the same in his order of September 22, 1953. From this order of the Director of Lands, Roberto Denopol has elevated the case on appeal to this Office, alleging as ground thereof, that he is entitled to the whole land in question by right of settlement because he has been in occupation thereof and had improved tile area before applicant-appellee came to the land in 1949; and that he would have been able to prove his assertion if he were present during the ocular inspection of the premises conducted by a representative of the Bureau of Lands, but because the said ocular inspection was made in his absence, he was deprived of his right to properly establish his claim."

"A review of the records of this case shows that there is no merit in those allegations of the appellant because it has been shown that the ocular inspection of the premises in question was conducted by the representative of the Bureau of Lands in connection with the investigation of this case and in the presence of the contending parties; that the appellant had testified in the said investigation; presented his witnesses; that he had pointed out to the investigating officer the site of his pre-war house and also his clearings and cultivation in the land in question; and that the investigating officer had found that the occupation and improvement of the appellant were confined on the portion awarded to him— Lot No. 74-"A", while the appellee is the occupant and cultivator of the major portion of Lot No. 74, which remains covered by his application***."

And the Director of Lands found in his order of September 22, 1953:

"* * * In the ocular investigation, it was found that the major part of the contested land is 'cogonal', specially the portion allotted to respondent Junto where he has under actual cultivation to corn and rice quite a sizeable area; The alleged cultivation and improvements of claimant Denopol were found in the portion 74-"A" where respondent Junto also has some cultivation and two dwelling houses. There are 80 coconut trees standing in this portion planted by claimant Denopol as tenant of Alejandro Sumbria, according to Junto's witnesses, altho Denopol alleges that he planted them in Ms own right."

"Claimant Denopol has not filed any public land application and is relying mainly upon his tax declaration. His oral evidence is not sufficient to support his claim over the entire 29 hectares comprising the contested area, specially over portion 74 where he has no actual possession or existing improvements. His cultivation in portion 74-"A", even conceding his claim to the 80 coconut trees therein, is so insignificant as to justify a claim to the entire contested area. On the other hand, the occupation of respondent Junto of the portion allotted to him and his actual cultivation of quite a big area therein, entitles him to acquire the said portion." .

From the facts gathered at the investigation, principally those found at the ocular inspection, it is evident that Denopo's claim to settlement right over the entire Lot No. 74; Pls-250, cannot be sustained. The conclusions of fact arrived at by the District Land Officer are correct, and amply supported by the evidence. ***."

In disputing the above statements, the appellant insists that the findings and inspection reports of Rufo Ibarra, who conducted the investigation as well as the ocular inspection contained nothing to support the conclusions. It must be remembered, however, that the Bureau and the Department had other papers before them, in addition to such report: draft of the inspection, testimony of witnesses and other official documents, for instance, the official report of the lands officer dated January 30, 1950, who visited and examined the land applied for by Junto. This official certified that Emilio Junto had been occupying and cultivating it since 1940, as the original occupant, and that it was not claimed by anybody; (Exh. B).

Denopol apparently misses one point, which the Director of Lands mentioned. Up to the time the controversy was

rebutted, he had not filed any public land application for this lot. In fact, he claimed to be the "absolute owner" thereof. Such being the case, it is no wonder the Government preferred Junto who had duly submitted a Homestead Application and had taken the trouble of securing its permission and approval.[2]

In a parallel situation, this Court denied in 1940, a petition for certiorari to revise an administrative decision of the land department on a public land controversy.[3] Borrowing from the language used therein, we may dispose of this appeal by saying, inasmuch as the Department Head had found as a fact that the application and occupation of the land (24-hectare portion) by Emilio Junto preceded the opposition and alleged possession of Roberto Denopol, we are powerless to afford relief by altering such conclusion. Other instances in which we applied identical ruling are cited in the margin.[4]

Wherefore, the appealed decision is affirmed, with costs against appellant.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Endencia, Barrera, and Gutierrez David, JJ., concur.

[1] In violation of the Rules—Rule 48, sec. 17 (f)—appellant failed to attach to his brief copy of the decision of the court below. We overlook the deficiency in view of the result.

[2] Indeed, the Government acted liberally in allowing Denopol to purchase the portion actually improved by him, 5 hectares.

[3] *Alejandrino vs. Aquino*, 70 Phil., 113.

[4] *Alejo vs. Garchitorena*, 83 Phil., 924; *De Guzman vs. De Guzman*, 104 Phil., 24, *Julian vs. Apostol*, 52 Phil., 422.

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