HEIRS OF MIGUEL MADIO, PETITIONERS, VS. HENRY C. LEUNG, RESPONDENT.

G.R. No. 169161. August 17, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Via this petition for review on certiorari, petitioners seek to set aside the decision[1] dated February 28, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 62216, entitled "Henry C. Leung v. Miguel Madio," as reiterated in its resolution[2] of August 4, 2005, denying the petitioners' motion for reconsideration. The assailed decision annuls the earlier resolutions dated March 12, 1998 and November 16, 2000 of the Office of the President (O.P.) in O.P. Case No. 97-J-8167.

The facts:

On September 9, 1960, the Director of Lands issued in favor of herein respondent Henry C. Leung (Leung) an Order of Award over Lot No. 8, P. Burgos Subdivision, Residence Section "H," Baguio Townsite, Baguio City (Lot 8, hereafter). Lot 8, with an area of 557 square meters, was then the subject of Townsite Sales Application No. V-677 (E-V-673) of one Jose R. Villanueva. The lot was awarded to Leung as the winning bidder in an auction sale thereof pursuant to Commonwealth Act No. 141, as amended.

On July 29, 1964, Miguel Madio (Madio), Teofilo Quiambao, Emilio Perposi and William Capiao, hereafter collectively referred to as "protestants," through counsel, filed a protest for the cancellation of the Order of Award in question on the following grounds:

> - They are the claimants of Lot 8, having been in actual, continuous, open and adverse occupation of the same since 1947;
>
> - Leung failed to comply with specific requirements under the award; i.e., he did not introduce any improvement on the lot since the award was made to him on September 9, 1960;
>
> - They were never notified previously that Lot 8 was the subject of public bidding and that the same was awarded to Leung;
>
> - They have already built their houses on Lot 8 and made improvements thereon; and
>
> - Under Republic Act No. 730 (RA 730), they are entitled to acquire the property.

Acting on the protest, the Bureau of Lands initiated an investigation thereof, and, upon ocular inspection of Lot 8 in 1967,[3] found several improvements thereon which the protestants introduced, among which was a one-storey house which Madio claimed to have constructed in 1960.

Based on the assailed decision of the appellate court, hereunder is the chronology of events that transpired in the Bureau of Lands in connection with the investigation of the aforementioned protest:

The initial hearing was scheduled xxx on March 24, 1965 but was reset xxx upon request of [Leung's] counsel, Atty. Leon P. Dacanay (or "Atty. Dacanay").

On April 20, 1965, only Miguel Madio xxx and his counsel, Atty. Hector V. Donato (or "Atty. Donato"), appeared for the protestants. Atty. Dacanay moved for dismissal of the protest for non-appearance of the other protestants, while Atty. Donato asked for postponement. The Land Investigator granted the motion for postponement.

The next hearing was set on May 19, 1965, at which Atty. Edilberto Tenefrancia, counsel for Teofilo Quiambao xxx, Emilio Perposi xxx and William Capiao xxx, entered his special appearance for Atty. Donato and asked for postponement, to which Atty. Dacanay interposed no objection. Accordingly, the hearing was reset xxx with the warning that no further request for postponement would be entertained.

On June 15, 1965, only Atty. Dacanay appeared for hearing. As there was no appearance for the protestants, Atty. Dacanay moved for the dismissal of the protest for failure to prosecute the same. Accordingly, the Land Investigator cancelled the other scheduled hearing and recommended the dismissal of the protest.

On June 16, 1965, the protestants filed a motion to lift the order of dismissal. [Leung] opposed the motion.

On April 11, 1967, [Leung] filed a manifestation before the District Land Officer of Baguio City requesting for favorable action on the Land Investigator's recommendation.

On April 12, 1967, the District Land Officer referred the manifestation to the Land Investigator for investigation, report, comment and recommendation.

On April 26, 1967, the Land Investigator filed his report with the finding that protestants had improvements on Lot No. 8.

On May 3, 1967, the District Land Officer forwarded the case to the Regional Land Officer of the Bureau of Lands at Dagupan City for decision.

On July 13, 1967, Bernardo C. Albano, Regional Director, Regional Land Officer No. 1, Bureau of Lands, Dagupan City, issued an order dispositively reading thus:

"WHEREFORE, it is ordered, as hereby it is ordered, that the protest and claim of the claimants-protestants be dropped and that they vacate the premises within sixty (60) days from the date of their receipt of copy hereof; and that the District Land Officer concerned conduct an investigation on the alleged non-compliance by the applicant with the conditions of the award, and, thereafter, submit report thereon."

In compliance with the order dated July 13, 1967, Land Investigator Trisoguno S. Bartolo, Jr. submitted a report xxx with the following findings: (i) Lot No. 8 is more suitable for residential purposes and is not needed ... for future public improvements; (ii) during the ocular inspection of Lot No. 8, it was found that [Madio] constructed a house thereon sometime in 1947, ...; and (iii) [Leung] has not made improvements on Lot No. 8 because it is being occupied by the protestants.

On January 29, 1973, [Madio] filed a petition with the Bureau of Lands opposing the award of Lot No. 8 to [Leung] and praying that he be allowed to apply therefor under Rep. Act No. 730 as he has been in continuous possession thereof since 1947.

On October 3, 1974, the Director of Lands, xxx informed [Madio] that his petition could not be given due course because the controversy over the award of Lot No. 8 to [Leung] had already been resolved in the order dated July 13, 1967 of the Regional Director in Dagupan City.

In a letter dated November 24, 1974, [Madio] again questioned the award to [Leung] ... On July 29, 1977, the Chief, Legal Division, Bureau of Lands wrote to [Madio] reiterating that the issues being raised against

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[Leung] were already resolved in the order dated July 13, 1967 and letter dated October 3, 1974.

On September 1, 1977, the Director of Lands directed the execution of the order dated July 13, 1967.

On February 21, 1980, [Madio] filed another petition, this time with the Office of the Secretary, Department of Environment and Natural Resources ("DENR"), and for reopening of the case, alleging the he has preferential right to Lot No. 8 under Rep. Act No. 730 because of his more than ten years of possession thereof; that the summary dismissal of his protest against the award to [Leung] was not based on evidence but on mere technicality; that the order of award in favor of [Leung] should be canceled for non-compliance with the conditions of the award; xxx

On November 7, 1983, [Leung] filed an answer averring that the order dated July 13, 1967 of the Regional Land Director has long become final and executory; that the petition is barred by laches and estoppel; and that [Madio] is not qualified to acquire Lot No. 8 under Rep. Act No. 730.

On June 16, 1992, Ricardo Umali, OIC-Secretary, DENR, rendered a decision [for Madio], the decretal portion of which reads:

"IN THE LIGHT OF THE FOREGOING, the July 13, 1967 Order of the Regional Land Director at Dagupan City and the Order of Award dated September 9, 1960, are hereby SET ASIDE. Let the disputed land be sold in favor of Miguel Madio under the provisions of Republic Act No. 730.

SO ORDERED."

The decision was based on these findings: (i) there is no showing that [Madio] actually received the order dated July 13, 1967 and, therefore, the same never became final and executory; (ii) [Madio] was denied due process when his protest was dismissed for failure of his co-protestants to appear for hearing before the Land Investigator; (iii) the public bidding is invalid for non-compliance with the publication and posting requirements under Sec. 24 of the Public Land Act; and (iv) [Madio] is qualified to acquire Lot No. 8 under Rep. Act No. 730 xxx

[Leung] filed a motion for reconsideration of the decision but it was denied on May 22, 1997.

Aggrieved, [Leung] elevated the case to the Office of the President ("OP") [in O.P. Case No. 97-J-8167]. However, his appeal was dismissed in a resolution dated March 12, 1998, viz:

"Per the 'Urgent Motion For Second Extension Of Time To File Appeal Memorandum and Draft Decision,' dated December 22, 1997, filed by [Leung], thru his counsel, Atty. Jose R. Erbo, Jr., the latter prayed that he 'be granted a second extension of fifteen (15) days from December 22, 1997, within which to file the required appeal memorandum and draft decision for appellant in the above entitled case.'

Considering that as of February 27, 1998, no appeal memorandum has been filed by [Leung], this Office is inclined to dismiss the appeal on the basis of Section 5 of Administrative Order No. 18, dated February 12, 1987, which provides:

'Section 5. The appeal may be dismissed for failure to comply with the Order of the Office of the President issued in connection with the appeal.'

WHEREFORE, the appeal is hereby dismissed and the records of the case remanded to the office a quo for proper disposition."

On September 18, 1998, [Leung], through counsel, filed a motion for reconsideration alleging that, contrary to the resolution dated March 12, 1998, his counsel personally filed before the OP the appeal memorandum, draft decision and affidavit of service on December 29, 1997 as evidenced by said counsel's file copies of the aforementioned documents duly stamp-marked "RECEIVED", dated and initialed by the receiving clerk of the

> OP Legal Office.
>
> On November 16, 2000, the OP issued a resolution denying [Leung's] motion for reconsideration, thus:
>
> "In the present recourse, [Leung] insists and alleges that an appeal memorandum and draft decision were in fact filed together with an affidavit of service, duly marked "received", on December 28, 1997. The records, however, reveal otherwise. To complicate matters, these documents are not attached to the present motion, contrary to [Leung's] representation.
>
> WHEREFORE, the instant motion for reconsideration is hereby DENIED.
>
> Let the records of the case be remanded to the DENR for proper disposition.
>
> SO ORDERED."[4] (Words in brackets and emphasis added)

Leung took recourse with the CA by way of a petition for review, thereat docketed as CA-G.R. SP No. 62216, thereunder claiming that the O.P. erred: a) in dismissing his appeal thereto for failure to file an appeal memorandum and draft decision and in denying his motion for reconsideration for failure to attach thereto copies of the appeal memorandum and draft decision; and b) in not setting aside the June 16, 1992 decision of the DENR OIC-Secretary, which decision invalidated the award in his favor of Lot 8 and decreed that said lot be sold to Madio instead.

On February 28, 2005, the CA rendered the herein assailed decision, the fallo of which reads:

> WHEREFORE, premises considered, the instant petition is GRANTED. The assailed resolutions of the Office of the President dated March 12, 1998 and November 16, 2000 are ANNULLED and SET ASIDE.
>
> Let this case be remanded to the Office of the President which is directed to give due course to [Leung's] appeal from the decision and order of the Officer-in-Charge-Secretary of the Department of Environment and Natural Resources dated June 16, 1992 and May 22, 1997, respectively, and to conduct further proceedings thereon.
>
> SO ORDERED.

In time, Madio moved for reconsideration but his motion was denied by the appellate court in its equally challenged resolution of August 4, 2005.

With Madio having evidently died in the meanwhile, his heirs are now with this Court via the present recourse, claiming that the CA gravely erred -

> - xxx when it ruled that the Office of the President summarily dismissed Leung's appeal;
>
> - xxx when it ruled that Leung's arguments deserved serious consideration;
>
> - xxx when it ruled that the case should be remanded to the OP for the latter to conduct further proceedings thereon.

We DENY.

It ought to be stressed at the outset that the issue tendered in this recourse turns on whether or not the O.P. erred in dismissing, for the reason set forth in its resolution of March 12, 1998, Leung's appeal from the DENR's decision. As narrated by the CA, the O.P. dismissed Leung's appeal on the stated reason that "no appeal memorandum has been filed [by Leung as of the last day for filing the same]." As it turned out, however, Leung did file the required memorandum. The CA was clear on this point. Wrote the appellate court in its appealed decision:

> First, We find perplexing the conflicting claims of the OP and petitioner [Leung] on the filing of the

> documents [referring to the appeal memorandum and draft decision] in question. Petitioner's file copies of said documents clearly bear stamp markings indicating receipt by the OP Legal Office. (Words in brackets and emphasis added.

At bottom then, the O.P.'s dismissal action has no factual support and thus should be struck down, as the CA correctly did. But assuming, for the nonce, that the necessary documents were indeed not filed, the imperatives of fair play would have impelled the O.P. to ask for an explanation, instead of proceeding with its outright dismissal action based on technicality, given that Leung's case appears to be prima facie meritorious. In this regard, we quote with approval what the CA said:

> At any rate, assuming that the documents in question were not filed together with the motion for reconsideration, possibly due to oversight or inadvertence, the OP would have done well to require the submission of the omitted attachments, instead of outrightly denying petitioner's motion for reconsideration. Indeed, judicial action by a party-litigant must be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor or property on technicalities (Paras vs. Baldonado, 354 SCRA 141). This rule rings true in administrative proceedings where technical rules of procedure are not strictly applied (Ocampo vs. Office of the Ombudsman, 322 SCRA 17).
>
> On the substantive aspect, We find prima facie merit in petitioner's appeal as discussed in his appeal memorandum. Instead of dismissing the appeal on technicality, the OP should have pondered upon petitioner's arguments, one of which is that the order dated July 13, 1967 had attained finality.
>
> xxx xxx xxx
>
> Equally deserving serious consideration is petitioner's argument that Sec. 79 (which merely requires "due notice")- not Sec. 24 - of the Public Land Act is the applicable rule on the publication and posting requirements of sale of lots in townsite reservations.
>
> Be that as it may, we shall not resolve petitioner's appeal, as it was summarily dismissed without respondent being afforded the chance to give his side of the controversy.
>
> Finally, dismissal purely on technical grounds is frowned upon. The rules of procedure ought not to be applied in a very rigid and technical sense for they are adopted to help secure, not override, substantial justice (Salazar vs. Court of Appeals, 376 SCRA 459).

Lest it be misunderstood, this, as was the CA's disposition, is not meant to resolve the substantive merits of the respective claims of the herein parties over a public land.

WHEREFORE, the petition is DENIED. Accordingly, the assailed decision and resolution of the CA, dated February 28, 2005 and August 4, 2005, respectively, are AFFIRMED

No pronouncement as to costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, and Azcuna, JJ., concur.
Corona, J., No part.

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[1] Penned by Associate Justice Edgardo P. Cruz, with Associate Justices Romeo A. Brawner (now Comelec Commissioner) and Jose Mendoza, concurring; rollo, pp. 32-42.

[2] Id. at 76-77.

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[3] Id. at 70-71.

[4] Id. at 33-38.

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