

PERFECTA CRUZ, PLAINTIFF AND APPELLANT, VS. ALIPIO DEL ROSARIO AND LAND TENURE ADMINISTRATION, DEFENDANTS AND APPELLEES. JOSEFA DE LA PAZ, INTERVENOR AND APPELLEE.*G.R. No. 17440, December 26, 1963*

Ponente: REGALA, J.

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On July 8, 1957, plaintiff-appellant filed an action with the Court of First Instance of Quezon City against Alipio del Rosario and the Land Tenure Administration praying, among other things, that she be declared owner of 14 of Lot No. 20, Blk. 90-B of the Marikina Estate, and, to that end, for the court to order the Land Tenure Administration to issue in her favor the corresponding title. After both defendants have answered, defendant Alipio del Rosario moved for the dismissal of the complaint on the ground that the plaintiff had not exhausted all available administrative remedies. Before the motion could be heard and ruled on, however, Josefa de la Paz was allowed to intervene upon a claim that she was a third party purchaser for value of the lot in dispute. She too moved to dismiss the action filed. After due hearing and reception of some documentary evidence, the court granted the motion and dismissed the complaint, sustaining movants' assertion that the plaintiff had failed to exhaust all administrative remedies then available. Failing in a motion for reconsideration of the above order of dismissal, the case was elevated to this Court on appeal.

Plaintiff-appellant assigns a single error to the order of dismissal, to wit:

THE COURT ERRED IN DISMISSING THE CASE ON THE ISSUE OF NON-EXHAUSTION OF ALL ADMINISTRATIVE REMEDIES."

The lower court's order of dismissal was based on the following undisputed facts:

It is to be noted that since February 17, 1953, Perfecta Cruz, plaintiff-appellant herein, and her daughter Leonora Eautista, filed a claim for the lot in dispute with the Landed Estates Division of the Bureau of Lands against Alipio del Rosario and Josefa Paz vda. de Bautista. On March 17, 1955, the Director of Lands rendered a decision to the effect that the transfer of rights over the land in dispute in favor of Alipio del Rosario was ineffectual. The same decision, however, recognized the right of Luisita Bautista, daughter of the herein intervenor, to one-half of the disputed property. But, because plaintiff-appellant was not completely satisfied with the decision, she appealed the same to the Department of Agriculture and Natural Resources.

Before the Secretary of Agriculture could act on the appeal, however, the Land Tenure Administration was created and appeal was forwarded to that office which then took cognizance of the appeal. After due investigation, the Land Tenure Administration rendered a decision adjudicating 1/2 of the property in dispute to Leonora Bautista and the other half to Alipio del Rosario. No award was granted Josefa Paz Vda. de Bautista as she was declared un-entitled by law to acquire the portion granted to Alipio del Rosario.

Dissatisfied with the above decision of the Land Tenure Administration, plaintiff-appellant twice moved to have the decision reconsidered. When both motions were denied, she filed the claim with the court.

Upon the facts above narrated, We held the order of dismissal appealed from legally correct and proper.

Plaintiff-appellant contends that, 'there is no law requiring a party to an action before the Land Tenure Administration to bring his case to a higher authority before he can go to Court, neither does the Land Tenures Administration, Order No. 1, require the appeal of a decision of the Chairman to the President as a condition precedent to bringing to the courts of justice an action for annulment of the decision.'

We cannot agree with the above proposition. Section 2 of the Land Tenure Administration Administrative Order No. 1 (duly published in the Official Gazette, Vol. 1 52, No. 1, pp. 81-82, 1956) providing for the rules and regulations concerning appeals from the decisions or orders of the Land Tenure Administration expressly declares that "a decision or order of the Land Tenure Administration *** may be appealed to the Office of the President within thirty (30) days from date the interested party received notice thereof. * * * " Moreover, under Sec. 8 of the same Administrative Order, it is expressly provided that the "decision or order of the Land Tenure Administration * * * concerning any adverse claim or conflict between two or more application shall become final after thirty (30) days from the date a copy thereof is received by the interested party unless appeal therefrom in the manner prescribed in Section 2 hereof is taken to the Office of the President, ***." Very clearly, therefore, appellant's claim is unmeritorious as it is untenable. For administrative rules, regulations and orders have the efficacy and force of law so long as they do not contravene any statute or the Constitution. Even as this is basic and needs no citation, We refer plaintiff-appellant to Article 7 of our Civil Code, And, for the record, it should be stated that appellant does not dispute the validity of the above-mentioned Administrative Order.

When an adequate remedy may be had within the Executive Department of the government, but nevertheless, a litigant fails or refuses to avail himself of the same, the judiciary shall decline to interfere. This traditional attitude of the courts is based not only on convenience but likewise on respect: convenience of the party litigants and respect for a co-equal office in the government. If a remedy is available within the administrative machinery, this should be resorted to before resort can be made to the courts, not only to give the administrative agency opportunity to decide the matter by itself correctly, but also to prevent unnecessary and premature resort to courts. This has been a consistent ruling in a chain of cases decided by Us. (See *Jao Igco vs. Shuster*, 10 Phil. 448; *Lamb vs. Phipps*, 22 Phil. 456; *Miguel vs. Reyes*, 93 Phil., 542; *Arnedo vs. Aldanese*, 63 Phil. 768, *Tuan Kay vs. Import Control Commission*, 91 Phil., 143; *Veloso vs. Board of Accountancy*, G.R. No. L-5760, April 20, 1953; *Lubugan, et al. vs. Castrillo and Malinay*, G.R. No. L-10521, May 29, 1957.)

In view of all the foregoing, this appeal is dismissed for lack of merit. Costs against the appellant.

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

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