

BALONG CALSE, PETITIONER AND APPELLANT, VS. PINKISAN YADNO, ET AL., OPPOSITORS AND APPELLEES.*G.R. No. 19652. December 29, 1964*

Ponente: BAUTISTA ANGELO, J.

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On December 1, 1960, Balong Calse filed a petition before the Court of First Instance of Baguio City in the Baguio Townsite Reservation case (Civil Res. Case No. 1) praying that this proceeding be reopened in accordance with Republic Act No. 931, as amended by Republic Act No. 2061, so that his title to Lots 1,2 and 3 of the townsite reservation may be confirmed and registered in his name in pursuance of the provisions of Sections 47 and 48, as amended, of Commonwealth Act No. 141, otherwise known as the Public Land Law.

He alleged that on November 13, 1922, as a result of the hearing held in this proceeding, a decision was rendered wherein all the lands covered by the Baguio Townsite Reservation were declared public lands except those reserved for other public purposes and those which were declared as belonging to private claimants; that among those declared public lands were Lots 1, 2 and 3 of Plan PSU-18145 whose possession, together with that of his predecessor-in-interest, has been publicly continuous, notorious and adverse to the whole world, peaceful and in the concept of owner, for more than 60 years up to the present time; that neither the herein petitioner, nor his predecessors-in-interest, was notified, personally or otherwise, of the hearing of the abovementioned proceeding held sometime in 1922, for which reason he or his predecessors-in-interest were not able to appear and prosecute their claim in said proceeding during the time fixed by the law for that purpose; and that for more than 42 years petitioner has declared the land which he seeks to register for taxation purposes and has paid religiously the taxes due thereon to the government. Wherefore, he prays that the lots abovementioned be registered in his name as prayed for in his petition.

The Bureau of Lands, as well as the City of Baguio, opposed the petition on the ground that the land applied for is part of the public domain. Sergio Tacal and others also opposed the petition alleging that a portion of land included in that which petitioner seeks to register belongs to them and, therefore, it should be registered in their name under Republic Act No. 931. They likewise claim that they were not notified either personally or otherwise of the hearing if the Baguio Townsite Reservation case for which reason they asked that the benefit that said Act extends to those who have failed to avail of their rights in the reservation case be extended to them.

Issues having been joined, the court a quo held the case for trial on the merits on June 3, 1961 pursuant to which petitioner appeared with his counsel and witnesses. Petitioner was placed on the witness stand as first witness. Hardly had he gone half-way in his direct testimony whom, upon motion of counsel for oppositor, the case was ordered dismissed. Counsel for petitioner moved to reconsider reasoning that petitioner has not yet finished his testimony and that before his case could be dismissed due process requires that he be allowed to complete his evidence. The court issued an order denying the motion. Its reasoning was that having petitioner admitted that he knew of the Baguio Townsite Reservation case since 1922 and did nothing about it because no one adversely claimed his land he cannot avail of the benefits of Republic Act No. 931. Petitioner interposed the present appeal.

Section I of Republic Act 931, as amended, provides in its pertinent part as follows:

"All persons claiming title to parcels of land that have been the object of cadastral proceedings, who at the time of the survey were in actual possession of the same, but for some justifiable reason had been unable to file their claim in the proper court during the time limit established by law, in case such parcels of land, on account of their failure to file such claims, have been or are about to be declared land of the public domain, by virtue of judicial proceedings instituted within the forty years next preceding the approval of this Act, are hereby granted the right within the period which shall not extend beyond December thirty-one, nineteen hundred and sixty-eight), to petition for a reopening of the judicial proceedings under the provisions of Act Numbered twenty-two hundred and fifty-nine, as amended, only with respect to such of said parcels of land as have not been x x x provisionally or permanently disused of by the Government, and the competent Court of First Instance, upon receiving such petition, shall notify the Government, through the Solicitor General, and if after hearing the parties, said court shall find that all conditions herein established have been complied with x x x it shall order said judicial proceedings reopened as if no action has been taken on such parcels."

As may be noted, any person claiming title to a parcel of land that has been the object of a cadastral proceeding but for some justifiable reason has been unable to file his claim in the proper court during the time limit established by law is given the right to file a petition to have the proceeding reopened so that if, after hearing, he proves that he has complied with all the conditions established therein he may proceed to establish his title over the land as if the same has not been declared part of the public domain.

The question then that arises is: Has petitioner shown some justifiable reason for his failure to file an answer or claim in the Baguio Townsite Reservation case to entitle him to a reopening thereof in his favor? To answer this question there is need to see what has happened during the hearing when petitioner began presenting his evidence. The record discloses the following portion of this testimony which served as basis for the court a quo:

"Q.- Have you ever learned about the hearing of the townsite civil registration case sometime in 1922, after you had acquired this property in question from your father in 1918?

A.- Yes, sir, I learned about it.

Q.- What did you do?

A.- Nothing.

Q.- Why did you not do anything when you learned about that?

A.- I did not do anything because there was nobody adversely claiming against or over my land, so I did not go to the Government to have my claim registered.

Atty. Ronquillo:

If your Honor please, I move to dismiss this petition because witness had knowledge of that reservation case.

Court:

Yes, witness said he had knowledge of that reservation case.

You have asked several questions already on that and he consistently answered showing he has knowledge of that case.

Atty. Navarro:

He might not have understood the questions, Your Honor.

Court:

The Court observes he understands. The petition must be dismissed.

Atty. Navarro:

I would like to request for a reconsideration, your Honor, on the ground that the witness is illiterate.

Court:

Yes, but the Court notes that he is intelligent. I believe he understands fully the import of the questions. He knew of that Baguio townsite case.

Atty. Navarro:

I beg the indulgence of this Honorable Court because of the old age of the petitioner.

Court:

Petitioner is sufficiently intelligent Motion for reconsideration is denied." (pp. 16-18, Record on Appeal)

Now, taking note that petitioner admitted having learned of the townsite reservation case that was instituted sometime in 1922 and that in spite thereof he did not do anything to protect his right upon the excuse that there was nobody who adversely claimed his land, the court a quo, considering this attitude as a waiver, disqualified him to avail of the benefits of Republic Acts 931. Counsel for petitioner demurred to this finding but to no avail. Hence he now comes for relief.

We are of the opinion that the court a quo has been somewhat hasty in holding that petitioner has already forfeited his right under said law simply because he admitted having knowledge of the institution of the townsite reservation case, far from his testimony, even if incomplete, cannot be clearly gleaned that such knowledge was acquired by him before or long after the termination of said proceeding. Note that, when he was asked if he came to know of the reservation case "sometime in 1922, he merely answered yes without being asked to clarify whether the answer had reference to the actual pendency of the case or sometime thereafter. At most it can be said that his answer is ambiguous which calls for further explanation, and this petitioner could have given if he had been allowed to complete his testimony. It should be noted that petitioner at the time he testified, was already 95

years old, and apparently he has not had much schooling. This is more so when we consider the matters he alleged in his petition which at that moment have not yet been covered by his testimony and which justice requires that they be substantiated with sufficient evidence.

Thus, some of the material allegations of his petition are: that neither he nor his predecessor-in-interest was notified personally or otherwise of the hearing of the reservation case held sometime in 1922, which is the reason why he failed to appear and prosecute his claim in said case during the period fixed by law or by the court. Equally material is the claim that the property in question had been declared in his name for purposes of taxation for nearly 42 years and that during that period he had religiously paid the taxes due thereon to the government. All this he stated under oath and due process warrants that he be given enough opportunity to prove it. But the court a quo denied him such right. We see no reason for the hasty action of the court.

Finally, the law gives to a person the benefit of reopening if he could show some justifiable reason why he had been unable to file his claim in the proper court during the time limit established by law which certainly can include more than the mere knowledge of the institution of the reservation case. As petitioner's counsel properly said, such phrase is too broad as to include other matters that may be deemed legally or factually justifiable, such as poverty, lack of notice, sickness, and the like. Petitioner could have advanced any of these reasons if given the opportunity to do so, which he has been denied. Justice demands that he be given such opportunity.

WHEREFORE, the order appealed from is set aside. The case is remanded to the court a quo for further proceedings. No costs.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Barrera, Paredes, Dtzon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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