

CRISOSTOMO BONILLA AND FLORA ANDRADA, PETITIONERS AND APPELLEES, VS. HON. SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, VICENTE BUENAFLO, MARCELO BUENAFLO AND LEONARDO BANAA...

G.R. No. 20083. April 27, 1967

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Vicente and Marcelo Buenaflor, Leonardo Banaag and the Secretary of Agriculture and Natural Resources from the decision of the Court of First Instance of Manila in Civil Case No. 27384 setting aside the aforesaid Secretary's orders of June 29 and August 16, 1955 and ordering that the applications of Crisostomo Bonilla and Flora Andrada for the lease of Lot No. 7296 and Lot No. 7297, respectively, of the Surigao Cadastre No. 234, Case No. 6, for fishpond purposes, be given due course to the exclusion of the applications of the Buenaflors and Banaag. However, on February 14, 1957 Marcelo Buenaflor withdrew his appeal (Rollo p. 41) and the withdrawal was approved on the 22nd of the same month and year by the Court of Appeals to which the appeal was originally elevated. What remains, therefore, is the appeal of Vicente Buenaflor, Leonardo Banaag and the Secretary of Agriculture and Natural Resources.

The following STATEMENT OF THE CASE AND OF FACTS made in the brief submitted by the Office of the Solicitor General is substantially correct:

"On August 15, 1949, petitioner Crisostomo Bonilla filed what is known as Fishpond Application No. 3891 (Exhs. A, A-1, pp. 175-176, rec.) with the Bureau of Fisheries for a fishpond permit covering Lot No. 7296 of the Surigao Cadastre No. 234, Case No. 6, located at Barrio Rizal, Surigao, Surigao, with an area of 43.8 hectares. Petitioner Flora Andrada also filed on April 14, 1952 her own fishpond application (F.A. No. 8344) (Exhs. B, B-1, pp. 177-178, rec.) for the adjoining lot, Lot No. 7297, which has an area of 68 hectares.

"On September 8, 1952, respondents Marcelo Buenaflor and Vicente Buenaflor filed Fishpond Application No. 8960 (Exhs. C, C-1, pp. 179-80, rec.) and 8961 (Exhs. D, D-1, pp. 181-182, rec.) respectively, for portions of Lots Nos. 7296 and 7297 of the Surigao Cadastre 234, Case No. 6, which are the same lots applied for by petitioners Crisostomo Bonilla and Flora Andrada. Respondent Leonardo Banaag also filed on September 10, 1952 his Fishpond Application No. 8968 (Exhs. E, E-1, pp. 183-184, rec.) for portions of said lots.

"Lot Nos. 7296 and 7297 were not released by the Bureau of Forestry for fishpond purposes until after the filing of said applications, that is, on November 25, 1952 and November 26, 1952, respectively.

"The conflict of claims between the petitioners Crisostomo Bonilla and Flora Andrada and respondents Vicente Buenaflor and Leonardo Banaag, was decided by the Director of Fisheries in his order of June 22, 1953 (Exhibit "C", pp. 193-195, rec.) wherein he gave due course to the respective fishpond applications of petitioners Crisostomo Bonilla and Flora Andrada and rejected the fishpond applications of respondents Marcelo Buenaflor, Vicente Buenaflor and Leonardo Banaag.

"The afore-mentioned order of June 22, 1953 was appealed to the Office of the Secretary of Agriculture and Natural Resources by said respondents and on October 19, 1953, the then Acting Secretary of Agriculture and Natural Resources, the Honorable Placido L. Mapa, rendered a decision (Exhibit 'H', pp. 196-198, rec.) rejecting the applications of the petitioners and giving due course to the applications of respondents Marcelo Buenaflor, Vicente Buenaflor and Leonardo Banaag. In short, the order of the Director of Fisheries of June 22, 1953 was reversed.

"Petitioners Crisostomo Bonilla and Flora Andrada filed a motion for the reconsideration of the last-mentioned decision (Annex 'A', pp. 328--342, rec.). In the order of February 12, 1954 (Exhibit 'I', pp. 199-200, rec.) respondent Secretary ordered the reinvestigation of the case between the petitioners and the other respondents in order to determine the truth or the falsity of the allegations of petitioners in their motion for reconsideration as to the improvements introduced on the lots in controversy by Vicente Buenaflor which the petitioners claim were introduced by said Buenaflor in disobedience of the order of the Director of Fisheries. The report of the investigation reveals the fact that 'of the improvements allegedly introduced by Buenaflor, only 21 meters of the dike fall within the dis-puted area and the bulk of said improvement is within Lot No. 638 which is a public land.' (See Exhibit 'J', pp. 201-203, rec.)

"On March 29, 1955, respondent Secretary entered an order (Exhibit J) setting aside the decision of October 19, 1953 (Exhibit H, pp. 196--198, rec.) and giving due course to the respective fishpond applications of petitioners Crisostomo Bonilla and Flora Andrada while rejecting the applications of the respondents, Vicente Buenaflor, Marcelo Buenaflor and Leonardo Banaag.

"A motion was filed by the above-mentioned respondents from the order rejecting their fish-pond applications, but the same was denied in the order dated May 17, 1955 (Exhibit 'K', pp. 204--205, rec.) on the ground that the improvements introduced by them on the lots in dispute 'are highly insignificant and disproportionate to the whole area of the fishpond in question'.

"Respondents Vicente Buenaflor, Marcelo Buena-flor and Leonardo Banaag filed a second motion for reconsideration and upon further consideration of the case, respondent Secretary entered the order of June 29, 1955 (Exhibit 'L', pp. 207-208, rec.) wherein the total area of the two lots in dispute 111.8 hectares, was divided among the petitioners Crisostomo Bonilla and Flora Andrada and the three respondents, so that each will get 22.36 hectares. The respondent Secretary declared in said order that the 111.8 hectares 'if divided equally among the five applicants x x x would be large enough for each of them to develop and exploit for fish-pond purposes and would be sufficient for their needs, considering that the greater number of our people have less or nothing at all. In deciding so, this Office is not only exercising its sound discretion as to which of the qualified applicants should receive the benefit and bounty from the government but is also acting for the common welfare of all concerned. The division of the area in controversy among all the applicants is, in our opinion, a just and equitable disposition of the case and accord with the dictates of a sound policy to give equal opportunity to all.'

"The petitioners Crisostomo Bonilla and Flora Andrada filed a motion for reconsideration of the order of June 29, 1955 (Exhibit 'L', pp. 207-208, rec.) but the same was denied in the order of August 16, 1955 (Exhibit 'N', pp. 228-229, rec.)."

On September 3, 1955, appellees filed a petition for certiorari and mandamus with the Court of First Instance of Manila (Civil Case No. 27384) to annul and set aside the orders of the respondent Secretary of Agriculture and Natural Resources of June 29, 1955 and August 16 of the same year and to compel the latter to give due course to their fishpond applications to the exclusion of those filed by the Buena-flors and Banaag, invoking in their favor the priority rule established under Section 13 (a) of Fisheries Administrative Order No. 14, as amended.

After trial, the lower court rendered the decision appealed from.

The action filed by appellees in the lower court is firstly, for certiorari - upon the ground that the Secretary of Agriculture and Natural Resources gravely abused his discretion in issuing the orders complained of, with the result that they were deprived of their priority rights under Section 13(a) of Fisheries Administrative Order No. 14, as amended by Fisheries Administrative Order No. 14-3 and secondly, for mandamus, to compel said official to give due course to their applications mentioned heretofore, to the exclusion of similar applications filed by the Buenaflors and Banaag. In our opinion, the action for mandamus depends entirely upon the success or failure of the action for certiorari in the sense that should it be found that the Secretary of Agriculture and Natural Resources did not commit any grave abuse of discretion in issuing the orders complained of, there could be no case for mandamus against him.

It is not disputed that Lots Nos. 7296 and 7297 of the Surigao Cadastre were released for fishpond purposes only on November 25 and 26, 1952, respectively - obviously more than two months after the filing of all the applications mentioned heretofore.

On the other hand, it seems clear that the priority rules set forth in the Fisheries Administrative Orders relied upon by appellees apply only to public lands suitable for fishpond purposes and actually released by the Bureau of Fisheries for that particular purpose, because until said lands had been properly declared available for fishpond purposes, there could be nothing to apply for. As a matter of fact, in a similar case decided on June 21, 1955 by the Secretary of Agriculture and Natural Resources, it was held that the priority rule can not be applied to areas not released for fishpond purposes and, therefore, not yet under the jurisdiction of the Bureau of Fisheries, and that as regards said areas, conflicting applications must be considered as being on the same level, their effectivity having commenced only at the time the area was released (Exhibits 11-A, A, N, and R). While this ruling - affirmed by the Office of the President of the Philippines (Exhibit 11-A) - is not necessarily binding upon the courts, it is clear that it is entitled to great weight and must be accepted as correct unless there is a clear showing that it is really wrong both on facts and laws, - which is not the case here.

Having thus arrived at the conclusion that the priority rule invoked by appellees does not apply to their case, no further argument need be adduced to show that the Secretary of Agriculture and Natural Resources did not commit any grave abuse of discretion in issuing the orders complained of providing for the equitable and equal division of the subject area amongst the applicants.

The action for certiorari being untenable, as held above, the action for mandamus against the Secretary of Agriculture and Natural Resources has no leg to stand on.

The truth of the matter, however, is that even assuming that the priority rule applies to the conflicting applications involved in this case, We can not find our way clear to holding that the Secretary of Agriculture and Natural Resources committed a grave abuse of discretion in issuing the orders complained of which, in substance, provide for the equal division of the land in dispute among appellants and appellees, with the further understanding that to appellant Vicente Buenaflor shall be assigned that portion of Lot No. 7296 where he had made improvements. We agree with said official's pronouncement that "the welfare of as many people as possible is the main concern" of his office and that in line with this policy "available lands of public domain should not be distributed with an unequal hand, favoring only a few and denying the same chance to the rest", and that "the 111.8 hectares involved in this case, if divided equally among the five applicants" x x x their respective share "would be large enough for each of them to develop and exploit for fishpond purposes and would be sufficient for their needs, considering that the greater number of our people have less or nothing at all".

IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby reversed and set aside.

With costs against appellees.

Concepcion, C.J., Reyes, J.B.L., Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Castro, JJ., concur.

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