

HEIRS OF JULIAN MOLINA, ET AL., PETITIONERS, VS. HONORIA VDA. DE BACUD AND COURT OF APPEALS, RESPONDENTS.

G.R. No. 20195. April 27, 1967

Ponente: REGALA, J.

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REGALA, J.:

This case involves a dispute over two parcels of land with a total area of about 60 hectares in barrio Bulagan in San Mariano, Isabela. In her complaint before the Court of First Instance of the province, respondent alleged that she was the absolute owner and possessor of these lands, having inherited them from her mother, Catalina Siccuan; that in her lifetime her mother was in "continuous, public, quiet and adverse possession" of the lands, in the concept of an owner; and that in 1944 Julian Molina, employing "violence, force, strategy and intimidation," seized possession of Lot 1 and a part of Lot 2 and cut the trees found therein. As relief, she asked the court to declare her the owner of the lands and to order Molina to deliver to her the lands and their products and pay her damages.

Molina denied the charges and claimed that the lands in question were public lands which he had acquired under a sales application duly approved by the Director of Lands. He contended further that appellee had lost whatever possessory rights she might have acquired by prescription. The Director of Lands also intervened to assert public ownership of the lands and contest the jurisdiction of the court. Before trial of the case began, Molina died and so he was substituted by his heirs, the petitioners in this case.

The trial court found that the lands in question really formed part of the public domain. In 1916, respondent's mother, Catalina Siccuan, took possession of the lands, declared them for taxation in 1919 and thereafter paid the yearly taxes. Still later, she had the lands surveyed. It is important to note that the survey plan was approved by the Director of Lands on April 17, 1922.

It was also found that Molina bought a five-hectare lot from a Kalinga tribesman and that, on the basis of this acquisition, he extended his possession over the neighboring lands in question. In 1936, he filed a sales application (S.A. No. 21218) covering these lands which the Director of Lands approved the following year (Entry No. 4064).

In 1938, respondent protested before the lands office the sale to Molina and, as no action had been taken, she filed another protest in 1948. An investigation was thereupon conducted but as respondent made known her desire to seek relief in the courts, the administrative investigation was suspended. This case was filed in the lower court on July 28, 1950.

The court upheld respondent's right to the lands, even as it declared them public, on the basis of respondent's priority of possession. It ordered the Director of Lands to cancel Molina's sales application and directed petitioners to vacate the lands and deliver them to respondent. Petitioners appealed to the Court of Appeals, but again they lost.[1] In affirming the lower court's judgement, the appellate court said:

"Since the land in question has been in the actual and physical possession of the plaintiff and her predecessor in interest from 1916 until 1936 when said possession was interrupted by the defendants, on one hand, and the defendants' predecessor in interest have (sic) acquired the right of possession thereto through sales application filed in 1936, approved by the Director of Lands on June 19, 1937, on the other hand, we are of the opinion, and so hold, that the land in question, although a part of the public domain, the Director of Lands, with knowledge that that portion of public land is occupied by a private person claiming it as her own, placing it under cultivation, and paying to the Government taxes on the land, could not grant a sales application in favor of Julian Molina, without giving the actual occupant the opportunity to acquire it for herself.

"x x x It is true that in a purely administrative case the Director of Lands is the officer authorized to determine the rights of the parties, and the courts cannot review any decision or order of the Director of Lands involving factual questions unless there is excess of jurisdiction. When the decision of the Director of Lands, however, is on a question of law, the courts are not precluded from taking cognizance of a petition to review. And that is also true when property rights, not mere rights of possession, are claimed over the land in question in which case the court should be the one to resolve the controversy. (Simon vs. Tago, 72 Phil. 289) The land subject of the sales application, having been occupied and claimed in ownership by a person other than the applicant, whose possession antedates that of the latter, the approval by the Director of Lands of the sales application, affecting as it does the property rights of the plaintiff and not his (sic) mere rights of possession, the court has jurisdiction to settle the controversy and order the cancellation of the sales application."

Petitioners brought the case to this Court for review, raising a number of issues which will be discussed in the course of this decision. They contend, first of all, that after finding that the lands in question are public lands, the trial court should have dismissed this case because under section 4 of the Public Land Act (Com. Act No. 141)[2] the authority to dispose of public lands is vested exclusively in the Director of Lands.

The argument is without merit. The authority given to the Lands Department over the disposition of public lands does not exclude the courts from their jurisdiction over possessory actions, the public character of the land notwithstanding.[3] This is such an action and the fact that in her complaint respondent claimed the lands in ownership did not change the nature of her action. The allegation of ownership should be regarded as a mere surplusage.[4]

The jurisdiction of the lower court cannot be assailed even if this case were viewed from the standpoint of appellants' position. For even if it be granted that the Director of Lands could validly dispose of the lands in favor of appellants, still jurisdiction over this case must be recognized in the court because once a sales application is approved and entry is permitted, the land ceases to be part of the public domain and the Director of Lands loses control and possession thereof except if the application is finally disapproved and entry is annulled or revoked.[5]

But of course the Director of Lands could not approve the sales application of appellants' predecessor in interest. By being in open, continuous, exclusive and notorious possession and occupation of the lands for more than 30 years, in the concept of an owner, respondent certainly has acquired a right which entitles her to a grant.[6] Only the lack of an application for the confirmation of respondent's title prevents us from holding that the lands are now deemed private lands, beyond the authority of the Director of Lands to dispose of.[7]

Nor can the Director of Lands plead ignorance of respondent's possession and occupation of the lands. As already adverted to above, he had previously approved the survey plan of the lands which Catalina Siccuan submitted, on April 17, 1922. Even the lands inspector sent to verify Molina's application must have noticed the improvements on the land.

It is argued, however, that respondent has lost whatever rights she might have acquired by abandonment. After paying taxes in 1929, it is claimed, neither respondent nor her predecessor paid taxes for subsequent years and it

was only in 1952 that taxes were paid again. Aside from the fact that abandonment cannot be inferred from the mere failure to pay taxes, this argument is fallacious because it is based on a premise that is against the ex-press finding of both the trial court and the appellate court, namely, that after the lands were declared for tax-ation in 1919 by respondent's mother, the yearly taxes thereafter were paid. What is more, it was found by both courts that from 1916 to 1936 the lands were in the pos-session of Catalina Siccuan and later of respondent. This is a finding that is conclusive on us.[8]

Now, if the lands were thus in the possession of respondent and her predecessor from 1916 to 1936, peti-tioners' claim to an older possession dating back to Spanish times must be rejected as something inconsistent. In the language of the Code, "possession as a fact cannot be recognized at the same time in two different person-alities." [9] It will not do for petitioners to try to create doubt on the validity of the factual conclusions in this case by adverting to a supposed discrepancy between the trial court's finding and that of the Court of Appeals as to the date when Molina entered the lands. A reading of the decisions of both courts will readily show that Molina excluded respondent from the lands in 1936, when, after buying a small parcel of land from Kalinga tribesmen, he extended his possession over the lands in question and included them in a sales applic-ation he filed in the Bureau of Lands.

WHEREFORE, the decision appealed from is affirmed with costs against petitioners.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, Zaldivar, and Sanchez, JJ., concur.
Castro, J., took no part.

[1] The Director of Lands did not appeal.

[2] The provision reads:

"Subject to said control, the Directof of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his deci-sions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture and Commerce."

[3] Bohayang v. Maceren, 96 Phil. 390 (1954); Pitargue v. Sorilla, 92 Phil. 5 (1952).

[4] Diaz v. Macalinao, 102 Phil. 999 (1958).

[5] Cf. Diaz v. Macalinao, supra.

[6] Com. Act No. 141, sec. 48(b), as amended by Rep. Act No. 1942.

[7] It is now settled that where all requirements for a grant by the State are complied with through actual phys-ical possession, openly, continuously and publicly, the possessor is deemed to have already acquired not only a right to a grant but a grant itself, for it is not neces-sary that a certificate of title be issued in order that said grant may be sanctioned by the courts, an application therefor being sufficient. (Mesina v. Pineda Vda. de Sonza, 58 O.G. 6403 /1906/; Susi v. Raxon, 48 Phil. 424 /1925/)

[8] See, e.g., Goduco v. Court of Appeals, 63 O.G. 309 (1964); resolution denying reconsideration, 63 O.G. 313 (1965)

[9] Civil Code art. 538.

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