

VICTOR EUSEBIO, PETITIONER AND APPELLANT, VS. SOCIEDAD AGRICOLA DE BALARIN, ET ALS., RESPONDENTS AND APPELLEES, ARTURO PRONERBO, ET ALS., INTERVENORS AND APPELLANTS.*G.R. No. 21519, March 31, 1966*

Ponente: REYES, J.B.L., J.

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Direct appeal from the decision of the Court of First Instance of Nueva Ecija, in its Civil Case No. 3582, denying, after trial, the petition of the petitioner-appellant, Victor Eusebio, for certiorari and the petition in intervention of the intervenors-appellants, Arturo Pronebo, Maria Gonzales, Ana Gonzales, Bernabe Linsangan, Anselmo Cajucom, Alberto Sacramento, Manuel Azarcon, Rosauro Azarcon, Leonardo Azarcon, Eugenio Mandia, and Mariano Fajardo, against the respondents-appellees, Sociedad Agricola de Balarin, Director of Lands and Secretary of Agriculture and Natural Resources for the said lands officials' resolutions in a land conflict over two (2) lots, Nos. 3837 and 3809, Cabanatuan Cadastre No. 51, respectively, containing an area of 349 and 18 hectares, more or less.

The court a quo found the records bereft of any indication that the above-named respondents lands officials committed grave abuse of discretion, or acted erroneously because of imposition, fraud or mistake, or had denied the petitioner and the intervenors the due process of law, which are all factual in nature; but the said petitioner and intervenors pursued their appeal directly to the Supreme Court, without resorting to the Court of Appeals. They have thus waived their right to question the trial court's findings of fact, (*Jacinto vs. Jacinto, et al.*, L-12313-14, 31 July 1959; *Del Castillo vs. Guerrero*, L-11994, 25 July 1960), and this Court will entertain only the legal issues raised in the appeal, there being no proper showing that the value of the interests of the parties in the disputed public lands, subject of the controversy, exceeds P200,000 (Sec. 17, Judiciary Act, R. A. 296, as amended by R. A. 2613).

The background of the appealed case is narrated by the trial court, as follows:

"On April 10, 1923, the Sociedad Agricola de Balarin, organized by Jose Moreno Lacalle and others, filed Sales Application No. 6541 for Lots 3807 and 3809, which application subsequently included other lots namely * * * as a result of the withdrawal, conveyance or relinquishment of rights made by other applicants or claimants. On May 16, 1924, the Bureau of Lands granted the Sociedad a provisional permit for which the corresponding permit fees were paid from 1924 up to 1940. The disputed land was improved and cultivated by the Sociedad up to the outbreak of the last global war.

"In July, 1951, Victor Eusebio filed his lease application No. V-29 covering Lot No. 3807 (Exh. A, p. 1, rec. of exhs.). On September 5, 1950, intervenor Maria Gonzales filed a homestead application in lieu of the pre-war application of her father Bonifacio Gonzales covering a portion of Lot No. 3809.

"On August 24, 1950, intervenor Arturo Pronebo filed Homestead Application No. V-42997 over a portion of Lot No. 3809.

"On October 30, 1951 , Assistant Public Land Inspector Andres Banting submitted his preliminary report to the Director of Lands recommending that lease application No. V-79 of Victor Eusebio should be rejected as it refers to a land already covered by the prior and subsisting sales application No. 6541 of the respondent Sociedad (Exh. B or 2, pp. 258-259, rec.). Said preliminary report was favorably endorsed on November 15, 1951 by the District Land Officer Antonio Pangilinan, who recommended to the Director of Lands that the lease application No. V-79 of the petitioner Victor Eusebio be rejected as it covers a land embraced by the subsisting sales application No. 6541 of the respondent Sociedad (p. 259, rec.).

"In an order dated December 4, 1951 , the District Land Officer in Cabanatuan City was directed to conduct an investigation of the various sales and homestead applications covering Lots 3807 and 3809 including the sales application No. V-4054 of Anselmo Cajucom, sales application No. V-5132 of Bernabe Linsangan, homestead application No. V-42995 of Leonardo N. Azarcon (Exh. C, pp. 260-261, rec.).

"In his report dated June 30, 1956, Agent Lucas Adeva of the Land Management Division of the Bureau of Lands, recommended that the lease application No. V-79 of petitioner Victor Eusebio be allowed to stand over a reduced area of 144 hectares as the portion covered by his clearings, cultivation, plantings and improvements as of May 21 to 23, 1956 when last inspected by him; that Maria Pangilinan, wife of Victor Eusebio, be allowed to acquire by sales application the portion of about 18 hectares consisting of a portion of Lot 3807 and a portion of the river bed which was fully cultivated by Victor Eusebio to compensate him for his huge investment in said portion; that the Sociedad Agricola de Balarin be sustained in its claim over sub-lots * * * and 3815 (the last sub-lot 3815 was also covered by sales application No. V-4894 of intervenor Manuel Azarcon which was recommended to be rejected); and that, because the other applicants were just recent occupants of the disputed lots, these applicants should be accommodated in the other unassigned portion (Exh. D, pp. 2-21, rec. of Exhs.)"

At first, the Director of Lands declared that the Sociedad had abandoned the contested lots since 1942 up to the time of the investigation, and, because of the abandonment, numerous persons, notably Victor Eusebio, had entered upon the lands and introduced improvements thereon and filed public land applications. The Director, therefore, in a decision of January, 1957, rejected the Sociedad's sales application and giving it due course, as conformably amended, reserved twenty (20) hectares for a barrio residential and school site, allocated fifty (50) hectares to the heirs of Jose Lacalle, and the rest of the area allocated for subdivision into farm-lots to the present occupants and deserving applicants.

The Sociedad then moved to reconsider, and the Director, upon re-examination of the record, reversed his prior decision, in an order dated 20 December 1957, on the ground that the Sociedad's abandonment of the lands was caused by the troubled condition during the Huk movement and, therefore, the apparent abandonment was involuntary. The Director disposed of the conflict among the several claimants in the following manner:

"WHEREFORE, it is ordered that the above-mentioned decision dated January 27, 1957 be, as hereby it is, modified in the sense that the Lease Application No. V-79 of Victor Eusebio shall be rejected, forfeiting in favor of the Government whatever amounts has been paid on account thereof. The Sales Application No. 6541 of the Sociedad Agricola de Balarin shall be reinstated and amended to include therein the portion of Lot No. 3807 allocated to Victor Eusebio in his Lease Application No. V-79, but excluding therefrom the rest of Lot No. 3807 mentioned in the same decision to be subdivided into small farm lots of not more than five (5) hectares, the area reserved for barrio and school sites and the lots already patented to other occupants. The Sociedad Agricola de Balarin shall reimburse the reasonable value of the improvements of Victor Eusebio within sixty (60) days after it receives the notice of appraisal to be made by the standing Committee on Appraisal. Accordingly, the Homestead Application No. V-49749 of Benjamin Dumalo, the Homestead Application No. 15551 of Bonifacio Gonzales (Deceased), represented by Maria Gonzales, the Homestead Application No. V-42997 of Arturo Pronebo, and the Homestead Application No. V-42269 of Leopoldo Cabuhat are thereby rejected all forfeiting in favor of the Government whatever amounts have been paid on

account thereof. Thereafter, the aforesaid sales application of the Sociedad shall be given due course."

Victor Eusebio moved for reconsideration of the above order, but the motion was denied on 30 October 1958. He, Arturo Pronebo and Maria Gonzales then appealed to the Secretary of Agriculture and Natural Resources. The Secretary dismissed their separate appeals, and affirmed the Director's findings but modified the Director's Order by amending Sales Application No. 6541 of the Sociedad so as to embrace the whole of Lot No. 3807, excepting that portion on the southeastern part which was adjudicated to Victor Eusebio and relieving the Sociedad from the payment of the value of the improvements introduced by Victor Eusebio on the said lot, because the latter entered the lot with knowledge of the prior possession and improvements of the former occupants.

The appellees(herein appellants) moved for reconsideration, but the Secretary denied their motion.

Victor Eusebio then filed the petition for certiorari with the Court of First Instance of Nueva Ecija on 9 December 1960. On the other hand, Arturo Pronebo, the heirs of Bonifacio Gonzales, and Anselmo Cajucom appealed to the Office of the President, but their appeal was, likewise, dismissed, after which they intervened in the court below in the present case.

The main legal issue tendered by appellants revolves around the extinction of the Sociedad Agricola de Balarin, which was organized and registered as a partnership with the Bureau of Commerce in 1923 by Jose Moreno Lacalle and others. Sales Application No. 6541 over the contested lots was made out in the name of the Sociedad as the applicant. Nothing in the articles of the partnership provided that upon the death of one of the partners, their heirs may continue with the partnership; but the heirs of the deceased partners (who had all died) passed a resolution to continue with the partnership, retaining the name "Sociedad Agricola de Balarin", and appointed the widow of Jose Moreno Lacalle (who died on 31 July 1940) as the manager. The sales application was pursued under the new set-up.

The appellants contend that the new set-up has no legal interest in the sales application for lack of personality to succeed the old Sociedad because the former partnership was dissolved upon the death of all of the original partners, and the resolution of their heirs to continue the partnership did not revive it.

There is no question that, under the Civil Code of 1889 then in force, the death of any one of the partners dissolved the old partnership (Art. 1700, old Civil Code; *Bearneza vs. Dequilla*, 43 Phil. 237), the case not being one where there are surviving partners continuing the partnership with the heirs of deceased partners. Hence, technically, the old Sociedad Agricola de Balarin organized by Lacalle and registered in 1923 and the new partnership of the same name and registered in 1955 are separate and distinct juridical persons.

But the dissolution of the original Sociedad Agricola de Balarin did not automatically entail the forfeiture of the rights it had acquired in the lots in dispute, through its improvements and occupancy, continued without interruption by the heirs of the original partners. The heirs remained in possession until 1943 when, as a consequence of war operations and later due to bloody encounters between government forces and the dissident bands, they had to vacate and stay out until 1951, when the area was declared once more safe for reoccupation and settlement. It is but equitable, as declared in the decision of the Director of Lands and of the Secretary of Agriculture, that the heirs of the original partners, as well as the new association established by them, should be considered subrogated in place of the original "Sociedad Agricola de Balarin", and allowed to continue with the sales application despite the distinct personality of the heirs' new partnership. Under section 105 of the Public Land Act, the heirs-at-law of a natural person, who dies before the final grant, are subrogated to his rights and obligations, and entitled to have issued to them the patent or final concession upon proof of compliance with the requirements of the law. There is no cogent reason why the provisions of this section should not be made to apply in favor of the heirs of the partners of the original Sociedad Agricola, since a partnership is, in the ultimate

analysis, but a collectivity of natural persons banded together for a common purpose; provided, of course, the aforementioned heirs cleave to the original ends of the association, as they have done in this case.

And there is every reason here to apply section 105 of the Public Land Act, by analogy, as against appellant Victor Eusebio, since the administrative authorities found that he entered the lots, applied for by the Sociedad Agricola, in bad faith, knowing that the same had been previously occupied and improved by others, who had not abandoned their rights and had protested against intrusions of other parties. These findings of fact are conclusive on the courts, as correctly held by the court below, there being no proof of fraud, imposition, error or abuse of discretion (*Ortua vs. Singson Encarnacion*, 59 Phil. 440; *Julian vs. Apostol*, 52 Phil. 422; *Vda. de Alfara vs. Mapa*, 95 Phil. 125; *Mari vs. Sec. of Agriculture*, 92 Phil. 411).

At any rate, whether or not the successors of the old Sociedad Agricola" should be subrogated to its rights and interests is a matter that lay exclusively within the discretion of the land authorities; and we see no abuse in their having chosen to do so rather than declare the land open to new entry by others, considering the improvements already introduced and the avowed intent of the heirs of the original partners to proceed with the sales application of their predecessors-in-interest.

Neither do we find tenable appellants' charge of fraud and denial of due process simply because the Director of Lands, after reviewing the same evidence for the second time, became convinced that his original decision was erroneous and decided to amend the same. Particularly since the appellants themselves had the case elevated to the Department of Agriculture and Natural Resources for review, and the Department, after due study, concurred in, and affirmed, the Director's amended decision in favor of the appellees.

As regards the appeal of the herein intervenors-appellants, the Office of the President, on 15 September 1961, had ruled:

"Lot 309 is claimed by the heirs of Bonifacio Gonzales and Arturo Pronebo—the first on the ground that they are the prior applicants, and the latter by virtue of the transfer of rights over ten hectares in his favor by the said heirs. The said lot appears to have been previously covered by HA 15551 of Bonifacio Gonzales and surveyed for him in November, 1923. He then transferred or relinquished his rights to Vicente Siazon whose assignment of rights to the Sociedad, in turn, was the basis for the partnership's supplemental application to include said lot in S. A. 6541. In a report of Public Lands Inspector Sotero de la Cruz dated July 22, 1926, the tract was reported under Vicente Siazon's HA 947250 and under occupancy by the Sociedad."

Upon the above findings, the intervenors-appellants charge that there is no written instrument submitted in evidence to support the finding that Bonifacio Gonzales sold, transferred or relinquished his rights under his homestead application; and that the finding is contrary to the rule that no evidence is admissible to prove a sale of realty other than by a written instrument.

This objection is untenable because the Statute of Frauds does not apply when the case is neither for a violation of a contract nor for the performance thereof (*Facurun vs. Sabanal*, 81 Phil. 512; *Almirol, et al. vs. Monserrat*, 48 Phil. 67; *Pascual vs. Realty Investment, Inc.*, L-4002, 12 May 1952).

The intervenors-appellants also invoke the land for the landless policy of the government and contend that the grant to the respondent Sociedad of such a big tract of land, more than 300 hectares in all, is a violation of the policy. The land authorities, however, did not err because, as they held, the aforesaid policy does not apply to lands already occupied and improved by other private persons, unless the latter are the first duly compensated.

The other issues are factual, hence, as hereinbefore stated, non-reviewable by this Court in view of the appellants' direct appeal from the Court of First Instance to this Supreme Court.

For the foregoing reasons, the appealed decision is hereby affirmed. One-half (1/2) of the costs shall be taxed against petitioner-appellant Victor Eusebio and the remaining half of the costs against the intervenors-appellants.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Regala, Makalintal, Bengzon, J. P., Zaldivar, and Sanchez, JJ., concur.

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