

BONIFACIO JULIAN, PLAINTIFF AND APPELLANT, VS. SILVERIO APOSTOL, SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 29040, December 14, 1928

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced on May 19, 1926 in the Court of First Instance of Nueva Ecija, for the purpose of recovering possession of two parcels of land situated in the municipality of Munoz of said province, known in the record as lots 1576 and 1577, together with damages in the sum of P10,000. The plaintiff alleged that he was a homesteader of said lots, with preferential right to the possession of the same. The defendant Remigia Juan was excluded from the complaint, by stipulation of the parties, it having been found that she had no interest in any of said lots. The defendants Silverio Apostol, as Secretary of Agriculture and Natural Resources; Jorge Vargas, as Director of Lands; Angel P. Miguel, Cesar Bengson and Frank E. Yost, as members of the Board of Investigation and Survey,—were included, on the ground that said defendants had unlawfully and without authority cancelled the homestead application of the plaintiff for lots 1576 and 1577, and had unlawfully declared forfeited his right as a homesteader.

All of the defendants answered by a general and special defense. The defendants Filemon Saturno and Tomasa Tomas filed a counterclaim for the sum of P15,000.

Upon the issue raised by the pleadings, the cause was brought on for trial. After hearing the evidence adduced during the trial of the cause, the Honorable Eduardo Gutierrez David, judge, in a carefully prepared opinion, reached the conclusion that the plaintiff, as homesteader of lots 1576 and 1577, had not complied with the requirements of the homestead law and had forfeited his right to said lots, and rendered a judgment, absolving the defendants from all liability under the complaint, without pronouncement as to costs. The dispositive part of the judgment reads as follows:

"En virtud de estas consideraciones, el Juzgado es de opinion que debe fallar este asunto, en cuanto a la demanda, absolviendo de ella a los demandados en todas y cada una de sus peticiones, incluyendo la de la demanda enmendada. En cuanto a la reconvencion de los demandados Filemon Saturno y Tomasa Tomas, se absuelve de ella al demandante por improcedente. Sin pronunciamiento en cuanto a las costas."

From that judgment the plaintiff appealed.

The appellant now contends that the lower court committed eight errors, relating to questions of both fact and law. His principal contentions are:

- (1) That the lower court erred in finding that the plaintiff had abandoned his possession of the land (lots 1576 and 1577), and had not complied with the requirements of the law;
- (2) That the lower court erred in not declaring that the Director of Lands had no authority to create the Board of

Investigation and Survey, and that the decision of said board is null and void; and

(3) That the lower court erred in not declaring that the homestead applications of Filemon Saturno and Raymundo Saturno were null and void ab initio.

ANTECEDENT FACTS

(1) On January 27, 1914, the plaintiff filed a homestead application for the lots in question, Nos. 1576 and 1577, which was approved by the Director of Lands on September 14, 1914 (Exhibits A and A-l).

(2) On February 27, 1914, the defendant Filemon Saturno filed a homestead application, which was approved by the Director of Lands on December 1, 1914, for a parcel of land which was later found to include the northern portion of the parcel covered by the application of the plaintiff (Exhibits 6 and 7). This portion is now known as lot 1577.

(3) On February 23, 1914, one Macario Santero filed a homestead application, which was approved by the Director of Lands on December 10, 1914, for a parcel of land, which was later found to be the southern portion of the land covered by the application of the plaintiff. This portion is now known as lot 1576. Macario Santero is the predecessor of the defendant Tomasa Tomas (Exhibits 8 and 9).

(4) On November 13, 1918, by reason of complaints filed with the Bureau of Lands by the plaintiff, the Director of Lands addressed letters to the defendants homesteaders, advising them not to interfere with the possession and cultivation by the plaintiff of the land covered by his homestead application (Exhibits B and C)

(5) On November 24, 1919, in reply to a letter of the plaintiff, the Director of Lands advised him to file an action against the defendants homesteaders in the court of the justice of the peace of the municipality of Muñoz, for their interference with his possession and cultivation of said lots 1576 and 1577 (Exhibits E-2 and E-3).

(6) On October 25, 1921, the Secretary of Agriculture and Natural Resources directed the Director of Lands to establish a branch office of the Bureau of Lands in the Province of Nueva Ecija, in order to expedite the disposition and settlement of conflicting claims to public lands in each municipality of said province. Accordingly, a board composed of three members (the defendants Angel P. Miguel, Cesar Bengson and Frank D. Yost) was created. Said board was known as "Investigation and Survey Board" (Exhibits 1 and 12).

(7) On January 23, 1922, said board heard the claims of the plaintiff and the defendants Saturno and Tomasa Tomas. Both sides presented witnesses, and were given a full and impartial hearing (Exhibit 11).

(8) On March 10, 1922, said Board of Investigation and Survey rendered its decision, based on the facts disclosed at the hearing, and held that the plaintiff Bonifacio Julian had forfeited his right as homesteader of lots 1576 and 1577, on the ground of abandonment. The pertinent part of said decision reads as follows:

"It thus appears that Bonifacio Julian may rightfully claim priority in the filing of the application. However, it seems clear that whatever rights he has acquired by such priority, were lost because he has neglected the cultivation of his homestead as is shown by his own testimony to the effect that he worked in his homestead only in 1915 and in 1921. He himself testified that during the intervening period he worked for other people to earn a living. He, however, asserts that he did not cultivate his land because he was afraid of the other claimants, namely Saturno and Santero, but this excuse cannot avail him because he himself admitted that during that time he could clear the land, and if he could clear it there is no reason why he could not have cultivated the same.

"In view of the foregoing, this Board finds that Bonifacio Julian has forfeited his rights to lots 1576 and 1577 which are hereby adjudicated in favor of the heirs of Raymundo Saturno and in favor of Filemon Saturno,

respectively."

(9) On April 4, 1922, the Director of Lands approved said decision, from which the plaintiff appealed to the Secretary of Agriculture and Natural Resources (Exhibits G-2 to G-5)

(10) On August 7, 1923, the Secretary of Agriculture and Natural Resources affirmed the decision of the Board, as approved by the Director of Lands (Exhibit 13).

TRIAL OF THE CAUSE—FACTS

The trial of the cause in the lower court was substantially a repetition of the hearing made by the Survey and Investigation Board in 1922. The same witnesses testified for the plaintiff (plaintiff himself and Jose Cabanatan). The witnesses for both partes testified to the same facts covered by the testimony of the witnesses at the hearing before the Survey and Investigation Board.

A great preponderance of the evidence adduced by both parties shows that the plaintiff has not cultivated lots 1576 and 1577 except in 1915 and 1921. The conclusion of the lower court, that the plaintiff had abandoned the land and that he had not complied with the requisites of the homestead law, is in conformity with the facts proved during the trial.

Section 5 of Act No. 926, which corresponds to section 16 of Act No. 2874, authorizes the Director of Lands to cancel any homestead entry, upon satisfactory proof that the homesteader has voluntarily abandoned the land for more than six months at any one time, or has otherwise failed to comply with the requirements of the homestead law.

Section 70 of Act No. 926, which corresponds to section 4 of Act No. 2874, provides that the decisions of the Director of Lands upon questions of fact relating to the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, shall be conclusive when approved by the Secretary of Agriculture and Natural Resources.

From the provisions of said section 5 of Act No. 926 and section 16 of Act No. 2874, it appears that the Director of Lands was justified in declaring forfeited the right of plaintiff as homesteader of lots 1576 and 1577, and in cancelling his homestead entry, because of his failure to cultivate said lots from 1916 to 1920. The Survey and Investigation Board, created by order of the Secretary of Agriculture and Natural Resources was a lawfully organized body—a branch office of the Bureau of Lands, established in Nueva Ecija for the purpose of expediting the disposition and settlement of conflicting claims to public lands in said province. At least there is nothing in the law to show that said board was not lawfully organized. Its report on the investigation of plaintiff's homestead, was approved by the Director of Lands and became his decision. Upon appeal to the Secretary of Agriculture and Natural Resources, it was affirmed, and the fact therein decided—plaintiff's failure to cultivate the land and his abandonment of the same—became final and conclusive, under the provisions of said section 70 of Act No. 926, which corresponds to section 4 of Act No. 2874.

The decisions of the Supreme Court of the United States have consistently followed the general rule, that when the officers of the land department decide controverted questions of fact, which fall within the scope of their authority, their decision on those questions is final, except as they may be reversed on appeal in that department. (Cyc. of the U. S. Supreme Court Reports, vol. 10, p. 245.)

In the case of Vance vs. Burbank (101 U. S., 519) the Supreme Court of the United States, speaking through Mr. Chief Justice Waite, said:

"So far as this suit depends on the original title of Lemuel Scott, it is clear, under the well-settled rules of

decision in this court, that there can be no recovery. The question in dispute is one of fact; that is to say, whether Scott, when he demanded his patent certificate as against for the other contesting claimants, had resided on and cultivated the lands in dispute for four consecutive years, and had otherwise conformed to the requirements of the donation act. This was to be determined by the Land Department, and as there was a contest, the contending parties were called on in the usual way to make their proofs. They appeared, and full opportunity was given Scott to be heard. He presented his evidence and was beaten, after having taken the case through, by successive stages on appeal, to the Secretary of the Interior. This, in the absence of fraud, is conclusive on all questions of fact. We have¹ many times so decided. (*Johnson vs. Towsley*, 13 Wall., 72; *Warren vs. Van Brunt*, 19 Wall, 646; *Shepley vs. Cowan*, 91 U. S., 330; *Moore vs. Robbins*, 96 U. S. 530; *Marquez vs. Frisbie*, supra p. 800.) The appropriate officers of the Land Department have been constituted a special tribunal to decide such questions, and their decisions are final to the same extent that those of other judicial or quasi-judicial tribunals are."

In these proceedings, however, the decision of the Director of Lands was tacitly considered open for review by the judicial department. Another opportunity was thus afforded the plaintiff to prove his alleged right to the possession of the lots in question. However, the evidence adduced during the trial showed that the plaintiff had really abandoned the land and had failed to cultivate the same from 1916 to 1920, inclusive, in violation of the requirements of the homestead law. Therefore, the cancellation of his homestead entry by the Director of Lands and the forfeiture of his right as homesteader of lots 1576 and 1577 are in accordance with the law and with the facts proved during the trial. The judgment of the lower court, dismissing the complaint and denying plaintiff's right to the possession of said lots, is correct and should be affirmed.

The foregoing discussion of the facts and the law thereto applicable, disposes entirely of the first two assignments of error above noted. The other assignments of error need not be discussed for the purposes of this decision. Whether or not the homestead applications of Filemon Saturno and Raymundo Saturno (now Tomasa Tomas) are null and void ab initio, it is not necessary for this court to determine. The only question for determination is whether or not plaintiff is entitled to the possession of the lots as a homesteader, and we have decided that question in the negative.

Therefore, the judgment appealed from is hereby affirmed, without pronouncement as to costs. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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