

THE DIRECTOR OF LANDS, IN BEHALF OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER, VS. BUENAVENTURA OCAMPO, JUDGE ACTING IN VACATION IN THE COURT OF FIRST INSTANCE OF NUE...

G. R. No. 35776. August 21, 1931

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This certiorari proceeding was instituted by the Director of Lands, represented by the Attorney-General, to annul and set aside the order of March 28, 1931, and the partial decision of May 18th of the same year, rendered by the respondent judge of the Court of First Instance, cancelling the decision rendered on December 21, 1922 in cadastral case No. 13 of the Court of First Instance of Nueva Ecija, G. L. R. O. cadastral record No. 282, declaring lot No. 1368 to be public land, in pursuance whereof the respondent Ambrosio Manuel's answer was admitted, and the lot aforesaid adjudicated to him.

On December 21, 1922, a decision was rendered in cadastral case No. 13 of the Court of First Instance of Nueva Ecija, G. L. R. O. cadastral record No. 282, entitled "The Government of the Philippine Islands, petitioner, vs. Artemio Abaya et al., claimants," declaring cadastral lot No. 1368 to be public land. On February 7, 1930, the Philippine Legislature passed Act No. 3672, entitled "An Act to authorize the filing in the proper court, under certain conditions, of certain claims of title to parcels of land that have been declared public land, within the period of one year from the date of the promulgation of this Act." Section 2 of said law provides that said Act shall take effect on the date when the Governor-General shall by means of a proclamation, announces that it has been expressly or tacitly approved by the President of the United States as provided in the Act of Congress of August 29, 1916. Pursuant to this provision, on February 28, 1930, the Governor-General issued proclamation No. 299, published on March 8, 1930, in Vol. 28, No. 29, page 817 of the Official Gazette, announcing that the President of the United States had approved Act No. 3672 on February 7, 1930. On March 26, 1930, the Governor-General issued proclamation No. 307, which was published on April 5th of that year in Vol. 28, No. 11, page 1252 of the Official Gazette, stating that Act No. 3672 was actually approved by the President of the United States on February 17, 1930, and not on the 7th of that month, as erroneously transmitted by radio, and that the former proclamation was thereby amended accordingly. On March 12, 1931, the respondent Manuel filed a motion in cadastral case No. 13 praying that the order of general default entered in the case, as well as the decision with reference to cadastral lot No. 1368 be set aside, and that after admitting his answer and the supporting evidence, the parcel of land be adjudicated to him. On March 28th of that year, the respondent judge entered an order cancelling the decision declaring lot No. 1368 to be public land, and admitting Manuel's answer. On April 13th of the same year, the petitioner filed a motion for reconsideration praying for the revocation of the order of March 28th, alleging that the motion of the respondent Manuel had been filed after the one-year period granted by law. The motion for reconsideration was denied by the respondent judge on the 18th of that month. And on May 18, 1931, said respondent judge, after hearing the evidence, rendered a partial decision in said

cadastral proceeding adjudicating lot No. 1368 to Ambrosio Manuel.

On July 25, 1931, the petitioner filed his amended petition, which was admitted through a resolution of this Supreme Court dated the 30th of the month. On August 10th, the respondents also filed an amended answer, which must be admitted for the purposes of this decision. In said amended answer the respondents set up as a special defense the promulgation of proclamation No. 307 by the Governor-General.

The only question arising from the facts set forth in the pleadings is whether the motion filed by the respondent Manuel on March 12, 1931, was filed within the one-year period fixed in section 1 of Act No. 3672, and this point involves, in turn, the computation of said period. The Attorney-General argues that the period should be counted from February 28, 1930, the date of proclamation No. 299. The respondents contend that said period should be computed from the date of the publication of Act No. 3672 in the Official Gazette, which took place on March 18, 1930.

Proclamation No. 307, verbatim, reads as follows:

"BY THE GOVERNOR-GENERAL OF THE PHILIPPINE ISLANDS—A PROCLAMATION

"No. 307.—Amending Proclamation No. 299, series of 1930

"The original of Act Numbered Three thousand six hundred and seventy-two having been received from the Bureau of Insular Affairs at Washington, D. C, and it appearing thereon that the said Act was formally and actually approved by the President of the United States on February seventeenth, instead of February seventh, nineteen hundred and thirty, as this office was erroneously informed by radio on February nineteenth, Proclamation Numbered Two hundred and ninety-nine, dated February twenty-eighth, nineteen hundred and thirty, is hereby amended to read as follows:

" 'Pursuant to the provisions of section two of Act Numbered Three thousand six hundred and seventy-two, I hereby give public notice of the approval by the President of the United States on February seventeenth, nineteen hundred and thirty, as provided in section nine of the Act of Congress of August twenty-ninth, nineteen hundred and six- teen, of Act of the Philippine Legislature Numbered Three thousand six hundred and seventy-two, entitled "An Act to authorize the filing in the proper court, under certain conditions, of certain claims of title to parcels of land that have been declared public land, within the period of one year from the date of the promulgation of this Act. "

"In witness whereof, I have hereunto set my hand and caused the seal of the Government of the Philippine Islands to be affixed.

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"Done at the City of Manila, this twenty-sixth day of March, in the year of our Lord nineteen hundred and thirty.

"[SEAL]

"DWIGHT F. DAVIS

"Governor-General"

It will be observed that the prime and sole object of this proclamation was to correct the error incurred in proclamation No. 299 by the statement that the law had been approved on the 7th of February, 1930, by the President of the United States, instead of the 17th of that month and year. The amendment was substantial in so far as it had reference to the date of the President's approval of said law, and that date was a basis for the issuance of the proclamation of the Governor-General, which date, in turn, would determine when the aforesaid law took effect. For this reason, proclamation No. 307 must be understood to have abrogated, by amendment, proclamation

No. 299, and this being so, the commencement of said period must be the date, not of the first proclamation, nor of the publication of the law in the Official Gazette, but of the second proclamation or, March 26, 1930. As a corollary of this, it follows that the motion of the respondent Ambrosio Manuel was filed within the one-year period provided by law, and hence, the order of March 28, 1931, and the partial decision of May 18th, rendered by the respondent judge are valid and lawful, and in rendering them, he did not exceed his jurisdiction or abuse his discretion.

Admitting, then, the amended answer filed by the respondents on August 10, 1931, the writ of certiorari is denied, without special pronouncement of costs. So ordered.

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

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