

FELIX PAINAGA, PETITIONER, VS. HON. NOLI MA. CORTES, COURT OF FIRST INSTANCE OF ANTIQUE (BRANCH I) AND VENANCIO V. MOSTACHO, RESPONDENTS.

G.R. No. 53837. October 03, 1991

Ponente: FERNAN, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53837/>

FERNAN, C.J.:

The proper application of the doctrine of exhaustion of administrative remedies is the issue presented in the instant petition for review on certiorari.

On December 29, 1962, petitioner purchased from Bonifacio Merendad a parcel of corn and pasture land with improvements thereon situated at Sitio Igbolo, Barangay Cabiawan, San Remigio, Antique with an area of 60,000 square meters more or less. He has since then been in possession thereof.

On or about April 21, 1977, private respondent, claiming that the northern portion of said parcel of land is included in his Original Certificate of Title No. N-1889 (Free Patent No. 319059), caused a technical survey of said portion over the vehement opposition and objection of petitioner. Petitioner thereafter filed with the District Officer, Bureau of Lands, San Jose, Antique a protest under oath, praying that the original certificate of title issued in private respondent's favor be annulled on the ground of fraud. An investigation was forthwith commenced by the District Land Officer.

In the meantime, on September 20, 1978, petitioner filed before the then Court of First Instance (now Regional Trial Court) of Capiz an action for Injunction with Preliminary Prohibitory Injunction with Damages against private respondent, docketed therein as Civil Case No. 1539. He alleged in the main that since he filed the protest with the District Land Office, private respondent, personally and with the aid of his agents who are notorious in the community for their violent temper, had for several times attempted and were still attempting to oust him from the area in controversy by means of force, violence and intimidation. He therefore prayed that a writ of preliminary prohibitive injunction be issued against private respondent as defendant therein and his agents; that said injunctive writ be made permanent after trial and that private respondents be adjudged liable to him for actual and moral damages and expenses of litigation.[1]

After hearing the parties' arguments on the application of a writ of preliminary prohibitive injunction, the trial court issued an order dated December 17, 1978 denying said application but setting the main case for hearing on January 9, 1979.[2]

At the hearing, counsel for private respondent moved for the dismissal of the case, to which counsel for petitioner responded with a request to be allowed to file a memorandum in opposition to said motion. The memorandum was seasonably filed.

On January 22, 1979, the trial court issued an Order dismissing Civil Case No. 1539 on the ground of prematurity. It held that the action for injunction is in effect an action for nullity of OCT No. 1889 which was allegedly

obtained by private respondent through fraud. However, since it was admitted by petitioner that he had filed a protest with the Bureau of Lands, which protest was still pending investigation, petitioner had "no cause of action for filing a complaint in court unless the administrative remedies provided by law shall have been exhausted." In support of its ruling, it cited the pronouncement in the then recent decision in *Pestanas vs. Dyogi*, G.R. No. L-25786, February 27, 1978, 81 SCRA 574, that where a party seeks a cancellation of a free patent with the Bureau of Lands, he must first pursue his action in the proper Department and a review by the Courts will not be permitted unless the administrative remedies shall have been exhausted.[3]

Hence, the petition at bar.

We grant the petition. The court a quo misapplied the rule on exhaustion of administrative remedies. This misapplication stemmed primarily from its characterization of petitioner's action as one for annulment of private respondent's original certificate of title which included the area in dispute. Since a protest aimed precisely at this relief had been previously filed by petitioner in the Bureau of Lands District Office, the trial court readily concluded that the action in court was premature, following the pronouncement in *Pestanas vs. Dyogi*, supra.

A reading of the complaint in Civil Case No. 1539 however shows that the same is, as its caption states, an original action for injunction brought to protect and preserve petitioner's right of possession over the subject land in accordance with the provision of the New Civil Code which recognizes a possessor's right to be respected in his possession, thus:

"Art. 539. Every possessor has a right to be respected in his possession; and should he be disturbed therein he shall be protected in or restored to said possession by the means established by the laws and the Rules of Court."

In the very recent case of *Maximo Solis, et al. vs. Hon. Intermediate Appellate Court, et al.*, G.R. No. 72486, June 19, 1991, this Court ruled that the "power and authority given to the Director of Lands to alienate and dispose of public lands does not divest the regular courts of their jurisdiction over possessory actions instituted by occupants or applicants against others to protect their respective possessions and occupations. While the jurisdiction of the Bureau of Lands is confined to the determination of the respective rights of rival claimants to public lands or to cases which involve disposition of public lands, the power to determine who has the actual, physical possession or occupation or the better right of possession over public lands remains with the courts."

The rationale for this ruling was given, thus:

"The rationale is evident. The Bureau of Lands does not have the wherewithal to police public lands. Neither does it have the means to prevent disorders or breaches of peace among the occupants. Its power is clearly limited to disposition and alienation and while it may decide disputes over possession, this is but in aid of making the proper awards. The ultimate power to resolve conflicts of possession is recognized to be within the legal competence of the civil courts and its purpose is to extend protection to the actual possessors and occupants with a view to quell social unrest."

The protest filed by petitioner before the Bureau of Lands seeking the cancellation of private respondent's original certificate of title on the ground of fraud differs from Civil Case No. 1539 in terms of their nature, the causes of action upon which they rest as well as in the reliefs sought. The administrative protest boils down to the question of ownership of the area in controversy, while the court action is concerned merely with possession. That ownership and possession are two entirely different legal concepts is illustrated in the case of *German Management Services, Inc. vs. Court of Appeals*,[4] in this wise:

"x x x It must be stated that regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be turned out by a strong hand, violence or terror. Thus, a party who can prove prior

possession can recover (or retain) such possession even against the owner himself. Whatever may be the character of his prior possession, if he had in his favor priority in time, he has the security that entitles him to remain on the property until he is lawfully ejected by a person having a better right by accion publiciana or accion reivindicatoria."

Whatever decision the trial court may render in Civil Case No. 1539 will not encroach on the primary jurisdiction of the Bureau of Lands over the question of who between petitioner and private respondent is entitled to the ownership of the land in question. Thus, the principle of exhaustion of administrative remedies does not find application in the case at bar.

Indeed, the case at bar is easily distinguishable from *Pestanas vs. Dyogi*, supra so heavily relied upon by the trial court. There is no doubt that the principle of exhaustion of administrative remedies obtained in that case as the plaintiffs-appellants therein, after filing with the Bureau of Lands a petition for cancellation of free patent No. V-166124 issued to Josefa Dyogi, filed with the Court of First Instance of Quezon a complaint to have the identical free patent No. V-166124 declared null and void, praying that they be declared the owners of the portions of land possessed by them and/or that they be declared as having the preferential right to acquire the said land. In the case at bar, the action in court brought by petitioner did not seek that the title of private respondent be annulled, which issue was already before the administrative agency, but merely asked that petitioner be respected in his prior possession of the piece of land in controversy.

WHEREFORE, the instant petition is hereby GRANTED. The order dated January 22, 1979 is annulled and set aside. Civil Case No. 1539 of the former Court of First Instance of Antique is reinstated. The successor Regional Trial Court is directed to proceed with the disposition of the case with deliberate dispatch.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] pp. 3-6, Petitioner's Memorandum, p. 109, Rollo.

[2] p. 26, Rollo.

[3] p. 23, Rollo.

[4] G.R. Nos. 76216-17, September 14, 1989, 177 SCRA 495, citing *Drilon vs. Guarana*, 149 SCRA 342; *Supia and Batioco vs. Quintero and Ayala*, 59 Phil. 312 and *Pitargo v. Sorilla*, 92 Phil. 5.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.