

MINISTER OF NATURAL RESOURCES AND DIRECTOR OF LANDS, PETITIONERS, VS. HEIRS OF ORVAL HUGHES, ET AL., RESPONDENTS.

G.R. No. 62664. November 12, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

These proceedings lay bare a most blatant manifestation of forum-shopping, a reprehensible manipulation of court processes and proceedings which has succeeded in delaying enforcement of an administrative decision rendered more than twenty (20) years ago, against which this Court will extend its correcting hand, not only to strike down those reprehensible stratagems but also to assure that the decision may, at long last, be finally carried out.

The events that gave rise to the present controversy go far back in time, to the 'twenties in fact. In 1924, a gentleman by the name of Orval Hughes was granted a lease by the Government over agricultural land in Malalag, Davao, which had an approximate area of 856 hectares. The lease set a term of 25 years. It actually expired on May 25, 1953, having been extended for 3 years and 10 months. Orval Hughes died during the Japanese Occupation and was succeeded in the lease by his heirs.

Prior to the expiration of the lease, the Hughes Heirs filed individual sales applications over 716 hectares of the land leased.

In 1949, a group of some 133 persons petitioned the Bureau of Lands for the cancellation of the Hughes lease, alleging abandonment and non-cultivation on the lessee's part, and for the subdivision and allocation of the land among them.[1] The petition was denied, the Bureau having found that the lessee had in truth complied with the requirement of cultivation imposed by the lease agreement. An appeal by the 133 petitioners to the Secretary of Agriculture and Natural Resources proved unavailing. In a decision rendered on June 2, 1953, the Secretary noted and sanctioned the continued possession by the Hughes Heirs of the landholding despite the expiration of the lease on May 25, 1953, and declared them entitled to acquire the same by purchase.

Nothing daunted, the same group of 133 persons, now headed by a certain Teodulfo Toca, filed with the Office of the President in November, 1955 an opposition to the sales applications of the Hughes Heirs. They grounded their opposition on the claim that they had themselves personally cultivated most of the land from 1945 to 1950, and the area cultivated by the Hughes Heirs extended only over 50 hectares. The opposition was overruled and dismissed on January 27, 1956. The oppositors moved for reconsideration. The Department of Agriculture and Natural Resources was required to comment. After having the matter investigated, the Department submitted its recommendations to the Office of the President. Thereafter an Amended Decision was rendered by the Executive Secretary dated August 20, 1957, awarding to the oppositors 399 out of the 716 hectares in question, and to the Hughes Heirs, the remainder, 317 hectares, each heir being allotted some 63 hectares, viz:

" * * (C)onsidering the extent of the improvements introduced by the heirs of Orval Hughes, the decision of this Office dated October 18, 1956 is hereby modified in the sense that each of the 133 petitioners shall be allotted three (3) hectares each of the 716 hectares in question and the remaining 317 hectares shall be divided

among the heirs of Orval Hughes who shall be given the preference to choose from the area of 716 hectares the particular portions to be covered by their respective applications."

This decision became final and executory. But the controversy was not ended. It was kept alive by the Hughes Heirs who launched a series of actions in different courts in a stubborn, persistent, repetitious effort to strike down the judgment, or at least to delay its enforcement to such an extent as might in due time bring about disheartenment and loss of interest on the part of those who opposed them.

The first of these actions was filed in the Court of First Instance of Davao City where it was docketed as Civil Case No. 4685. That was a suit praying for the annulment of the decision of the Office of the President dated August 20, 1957 and for an injunction against its implementation. It was dismissed by the Court on April 3, 1967. The dismissal was affirmed by the Court of Appeals on January 18, 1971, and by this Court on September 21, 1971.

The second suit was filed in the Court of First Instance of Quezon City, where it was docketed as Civil Case NO. Q-18569. It was given the form of a special civil action for certiorari and/or mandamus, the basic prayer being the nullification of the award of the land by the Office of the President to the Toca Group of 133 persons or so, and the proscription of the enforcement of that Office's Amended Decision of August 20, 1957. The suit was dismissed on May 21, 1974.

The third action was one for injunction, filed in the Court of First Instance at Digos, Davao del Sur, where it was docketed as Civil Case NO. 918, seeking to prevent the District Land Officer from administering the land and awarding it to the occupants, who were, of course, the Toca Group. This action suffered the same fate as the first two. It was dismissed on August 12, 1975.

The fourth proceeding also took the guise of an action for injunction. It was filed in the Court of First Instance of Quezon City, where it was docketed as Civil Case No. 1376. It basically sought to prevent the defendants therein, inclusive of the Toca Group, from entering the land in question and harvesting coconuts therein, and from molesting the plaintiff (the Hughes Heirs) in their possession and enjoyment of the property. This, too, was dismissed, the dismissal coming on October 12, 1979.

The fifth suit is that which has directly given rise to the appellate proceedings at bar. It was commenced by the Hughes Heirs on February 23, 1979 in the Court of First Instance of Davao, where it was given the docket number, 1416. Named defendants were the Minister of Natural Resources, the Director of Lands, the provincial PACLAP (Presidential Action Committee on Land Problems), and two private individuals -- German Tuzon and Exequiel Canencia -- or their successors. Two causes of action were alleged by the Hughes Heirs in their complaint. The first was that the PACLAP Chairman had refused and still refused to comply with PACLAP Special Order No. 7, enjoining the Special Screening Committee (created to implement the decision of the Office of the President of August 20, 1957) from performing acts of administration over the 399-hectare portion of the land previously subject of the Hughes lease, but had instead allowed entry into the land and the harvest of coconuts therefrom to the prejudice of said Hughes Heirs. The second was that the Director of Lands had failed and refused to act on the Heirs' individual sales application of the 317 hectares allotted to them. They prayed inter alia not only that the "Director of Lands be ordered to process and adjudicate in accordance with the aforementioned decision the sales applications of the five (5) heirs of Orval Hughes granting to each of them sixty three (63) hectares", but also that they (the Hughes Heirs) be allowed "to continue the enjoyment of their improvements in the 399 -hectare portion of the property until such time that their claims are finally resolved and/or their improvements paid fully for."

In their answer, the defendants stressed that the complaint was but a maneuver of the Hughes Heirs, like others in

the past, designed to perpetuate their occupation of the 399 hectares already awarded to the Toca Group. They asserted that contrary to the Hughes Heirs' claim, defendant public officials had indeed taken many steps to implement the decision of the Office of the President of August 20, 1957,¹ but those steps had been frustrated and negated by the various actions instituted by the Hughes Heirs. The defendants also asserted that *res judicata* barred this latest attempt to re-litigate the question of the validity or enforcement of the Decision of August 20, 1957.²

On the day of the trial, March 24, 1982, the plaintiff heirs were present but not their lawyer, Atty. Ismael Crisanto. The Court³ thereupon declared the plaintiffs non-suited it appearing that Atty. Crisanto had been duly notified of the hearing, and dissolved the writ of preliminary injunction earlier issued.⁴ Atty. Crisanto moved for reconsideration alleging lack of funds and "stomach trouble and LBM" as causes for his failure to appear.⁵ The Court denied his motion, ruling that the grounds therein set out did not constitute accident or excusable negligence.¹

On petition for certiorari of the Hughes Heirs, the Court of Appeals² nullified the order of dismissal. It opined that -

" * * If the plaintiff is present, there is no basis for the premise or assumption that the plaintiff has lost interest in his case (*Gumela vs. Aniana*, CA G.R. No. 31819-R, April 8, 1964), for the phrase 'failure to prosecute the action for an unreasonable length of time' means 'unwillingness to proceed with the scheduled trial' or failure to appear at a pre-trial (*R.G. Martin*, 1 Rules of Court, 1972 ed., 5 SCRA 1177; *Marigomen vs. Valencia*, CA-G.R. No. 05635-R, Sept. 19, 1977)."

The Appellate Court went on to say that the policy of according parties a chance to ventilate their claims instead of throwing out cases on procedural technicalities should have been applied in this instance where there had been a previous opinion of the trial court³ to the effect that a sufficient cause of action existed in plaintiffs' favor.

From this decision, the Minister of Natural Resources and the Director of Lands have appealed to this Court on certiorari positing grave error by the Court of Appeals in resolving the issue only in its technical aspect without taking account of the factual background of the case or of the more weighty aspect of substantial justice. They stress the futility of reinstating a case which is patently without merit or foundation, involving naught but old issues repeatedly ventilated by the Hughes Heirs and all resolved adversely to them by judgments which had long since become final. They also contend that Atty. Crisanto's motion for reconsideration of the order of non-suit against his clients was palpably insufficient in form and substance, not being accompanied by substantiation of the grounds relied upon for relief or by an affidavit of merits.

The petitioners are correct. There is merit in their appeal. The challenged judgment of the Appellate Court will be reversed.

The Appellate Tribunal failed to apprehend, in the first place, that Atty. Crisanto's motion for reconsideration or, more properly, motion for new trial under Rule 37 of the Rules of Court, was flawed by serious defects. Neither an affidavit of merit nor an affidavit of the averred absolatory causes (as regards the lawyer's failure to appear for trial) was appended to the motion, as explicitly required by Section 2, Rule 37 in relation to Section 7, Rule 133 of the Rules.¹ There was in other words no declaration under oath to establish the counsel's claimed illness, conformably with the rule governing evidence on motions. And there was no affidavit of merit setting out the facts claimed to constitute the plaintiffs' valid and meritorious cause or causes of action. This is a fatal omission, absent any circumstance on record of adequate weight to excuse or justify the same.²

The Appellate Court also failed to consider the obvious fact that the action commenced by the Hughes Heirs in the Trial Court --- the fifth in a series of actions given diverse guises and forms by said heirs --- was but a thinly

veiled attempt to relitigate shopworn and adjudicated issues, in a transparent effort to hold on to a 399-hectare area of their predecessors' original leaseholding over which they had been pronounced, more than once, to have no right, and which had already been allotted and assigned to other persons, by decisions, administrative and judicial, which had all attained finality, the first having attained this state as early as 1957, thirty years back in time.

The Hughes Heirs argue that the action at bar is different from those previously instituted by them, the latter having sought prevention of implementation of the decision of August 20, 1957 whereas the current action precisely sought implementation thereof. The argument is clearly without merit. It flies in the teeth of their prayer to be allowed to continue in possession of the 399-hectare area which had been awarded to other persons upon the flimsy excuse that they still had improvements thereon. But this matter of the improvements would by now have been settled had it not been for their recalcitrance. As early as 1978, the administrative authorities were already set to make an inventory and appraisal of those improvements, to be set-off against the occupation fees owing from the Hughes Heirs;³ but this, the Heirs have effectively prevented up to now. They should not be permitted to so delay implementation of the Decision of August 20, 1957 any longer, specially to the prejudice of the grantees of said 399-hectare portion of the land in question. Their resort to forum shopping, to the filing of repetitious suits in different courts, not only furnishes ground for giving their present action short shrift, but also lays the foundation for an inquiry into their liability for constructive contempt for having abused the processes of the courts, and their counsel's own liability for the same sanction and such other additional administrative responsibility as might be proper in the premises.¹

Under these circumstances, the dismissal of the Hughes Heirs' complaint by the Trial Court was correct, and it was serious error for the Court of Appeals to have ordered its reinstatement. A case that bears no merit merely adds to the burden of an already burdened Judiciary. This Court reiterates what it pointed out many years back:²

" * * (T)he dockets of the courts are so clogged with cases most of which involve genuine controversies needing urgent attention that it has become the plain duty of judges enforceable by mandamus to dismiss at the earliest opportunity those which are shown to be, like the case at bar, hopelessly without any possible cause of action, even if they have to cast aside, whenever necessary, in so dismissing them, minor flaws in procedure which do not affect the jurisdiction of the court nor the minimum requirements of due process."

The exercise of the sound discretion vested in courts in resolving motions to dismiss is not limited to the application of the technical rules of procedure but extends to the application of the applicable substantive legal provisions to the attendant facts and circumstances in order that justice and fair play may be fully accorded.³

Parenthetically, the circumstances obtaining in the case at bar, above specified, serve to distinguish the situation therein comprehended from that in *Dayo v. Dayo*, 95 Phil. 703, cited by the Court of Appeals in justification of its action.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. No. 14269 subject of the present appeal, is REVERSED AND SET ASIDE, and the Order of the Trial Court dated March 24, 1982, dismissing the complaint of the respondents Hughes Heirs is REINSTATED AND AFFIRMED. The respondents, Heirs of Orval Hughes, as well as their counsel, Atty. Ismael Crisanto, are DIRECTED TO SHOW CAUSE IN WRITING, within ten (10) days from notice of this judgment, why they should not be punished for constructive contempt and/or otherwise disciplinary dealt with for abuse of the processes of the courts for having instituted a series of actions in different courts upon the same subject matter. Costs against private respondents.

Teehankee, C.J., Cruz, Paras*, and Gancayco, JJ., concur.

[1] The case was docketed as DANR Case No. 581

1 On May 5, 1972 a screening committee was organized to determine the qualifications of the 133 persons allocated lots within the 399-hectare portion excluded from the 716 hectares comprising the original leasehold of Orval Hughes. That committee was reorganized on October 17, 1977 to consider new methods and strategies to implement the Decision of August 20, 1957. On December 10, 1977 the committee was commanded to cause a relocation survey of the property, to take physical possession and control of all portions thereof outside of the parcels segregated for the Hughes Heirs, to exercise acts of administration over the same, to compute and collect from the Hughes Heirs all unpaid occupation fees from 1953, and to require said heirs to render an accounting of the fruits of the land from the same year. On November 22, 1978 the committee was dissolved and the Provincial PACLAP Committee of Davao del Sur was designated to take over its functions particularly that of screening the petitioners-awardees and maintaining possession of the premises. The same committee was also directed to make an inventory and appraisal of the improvements within the entire area of 716 hectares as of 1953, and to assess the Hughes Heirs for the payment of the corresponding occupation fees. Revised screening guidelines were also laid down by the PACLAP Executive Committee. (Rollo, pp. 71-73)

2 The defendants subsequently moved to dismiss the action on the ground of *res judicata* as well as failure of the complaint to state a cause of action, but their motion was denied by Judge F. Gapultos on April 29, 1980.

3 At this time presided over by Judge Pacita Canizares Nye

4 Rollo, p. 88

5 *Id.*, pp. 89-93

1 *Id.*, p. 94

2 P.V. Sison, J., ponente; Victoriano and Colayco, JJ., concurring

3 See footnote 2, page 4, *supra*

1 When the motion for new trial is made for the causes mentioned in subdivision (a) *inter alia*, e.g., fraud, accident, mistake or excusable negligence, it shall be proved in the manner provided for proof of motions, i.e., by affidavits or depositions.

2 *Wack Wack Golf & Country Club, Inc. v. C.A., et al.*, 106 Phil. 501; *Bernabe v. C.A., et al.*, 19 SCRA 679; *Ferrer v. Yang Sepeng*, 60 SCRA 149; *Dionisio v. Sioson Puerto*, 60 SCRA 471; *Philippine Commercial & Industrial Bank v. Hon. R. Ortiz, et al.*, G.R. No. L-49223, May 29, 1987

3 See footnote 1, page 4, *supra*

1 Resolution of the Court En Banc dated January 11, 1983 (par. 17); *Pacquing v. C.A., et al.*, 115 SCRA 117; *Buan v. Lopez*, 145 SCRA 34; *E. Razon, Inc., et al. v. Philippine Ports Authority, et al.*, G.R. No. 75197: Resolution of the Court en banc, July 31, 1986; *Palm Avenue Realty Development Corporation, et al. v. PCGG, et al.*, G.R. No. 76296, August 31, 1987

2 *Commissioner of Immigration v. Vamenta, Jr.*, 45 SCRA 342

3 *PNB v. Philippine Milling Co.*, 26 SCRA 712, 715

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