

NATIONAL DEVELOPMENT COMPANY AND DOLE PHILIPPINES, INC., PETITIONERS, VS. WILFREDO HERVILLA, RESPONDENT.

G.R. No. 65718. June 30, 1987

Ponente: PADILLA, J.

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PADILLA, J.:

Assailed in this petition for review on certiorari is the decision[1] dated 10 November 1983 of the Intermediate Appellate Court (now Court of Appeals) in AC-G.R. No. CV-66215 entitled, "Wilfredo Hervilla, Plaintiff-Appellant, versus Dole Philippines, Inc., Candido de Pedro, and National Development Co., Defendants-Appellees," which reversed the decision of the Court of First Instance of South Cotabato, General Santos City, as well as its resolution dated 9 August 1985 denying the motion for reconsideration of said decision.

The facts of the case, as gathered from the decision under review, are as follows:

"An action for Recovery of Possession and Damages filed on December 20, 1973 by Wilfredo Hervilla against Dole Philippines, a duly registered corporation doing business in Polomolok, South Cotabato, involving Lots Nos. 3284, and 3283, GSS-269-D, each containing four (4) hectares, more or less, situated at Sitio Balisong, Palkan, Polomolok, South Cotabato, now in the possession of defendant corporation as Administrator of the properties of National Development Corporation (NDC) impleaded as party defendant (Records, p. 48).

"On December 28, 1958, claimant Rolando Gabales, for a consideration of P450.00, sold to Hernane Hervilla all his rights and interest over a four-hectare land located in Palkan, Polomolok, South Cotabato but identified only by its boundaries:

' x x x On the North, by the property of Teopisto Espanola; on the south, by Mr. Macarandan; on the east by Francisco Macarandan and on the west by Regina Fabrea x x x ' (Exh. 'K').

"It was apparently on the strength of the Tax Declaration No. 1376 that Hernane Hervilla was induced to acquire it (Exh. 'L').

"On August 1, 1959, its adjoining occupant?claimant, Fernando Jabagat, for a consideration of P270.00, also sold his interest and rights to Hernane Hervilla over another four (4) hectares of land, situated at Balisong, Bo. Kablon, Tupi [later plotted in Palkan, Polomolok] South Cotabato, identified by its boundaries:

'x x x on the North by the property of Candido de Pedro; on the south by the property of Santiago Macarandan; on the East by creek and on the West by the property of Hernane Hervilla x x x' (Exh. 'H').

"Undoubtedly, while adjoining each other, one of these is situated on Polomolok, South Cotabato, while the other, is in Tupi, South Cotabato [the two lots were later plotted to be in Palkan, Polomolok]. For, at the time of these transfers, the boundary between these places had not definitely been settled. Hence, the discrepancy.

"On June 1, 1961, Wilfredo Hervilla, claiming to be the successor-in-interest of his brother, Hernane Hervilla who vacated these properties, [in favor of the former], filed with the District Land Office of the Bureau of Lands in General Santos City Free Patent Application Nos. 2054 and 2054-A, respectively, over the

lots, after the same were surveyed and designated as Lot Nos. 3264, GSS-269-D and 3166 (Exhs. 'A', 'A-7', 'B', 'B-4'; tsn, p. 249).

"On April 1, 1963, as claimant and occu-pant of Lots 3283 and 3284, GSS-269-D, situated at Balisong, Kablon, Tupi, South Cotabato since 1945, Candido de Pedro filed with the Bureau of Lands, Manila, his Free Patent Application, having planted it to abaca, coffee, banana, corn and other seasonal crops, erecting therein a farm house (Exhs. 'E', '2', '2-A', '2-B'). Land taxes from 1945 until 1963 were paid per Official Receipts Nos. B-9134501 and B-913492 (Re-cord, pp. 126, 131). Then, exactly four months after filing his application, Candido de Pedro ceded all his rights to the National Development Corporation, represented by Pedro Changco, Jr. (Exhs. 'J', 'J-1').

"On April 27, 1968, Wilfredo Hervilla who was then in Palawan, thru his wife, Emma V. Hervilla, filed an ejectment suit against Dole be-fore the Municipal Court of Tupi, South Cotabato (then Cotabato) alleging that 'sometime in the early part of March 1968 defendant by means of threats, of force, intimidation, strategy and stealth and against the will of the plaintiffs, entered and occupied the entire parcels (lots Nos. 3264 and 3265, GSS-269-D) x x x constructing x x x' (Exh. 'F', Record, p. 109). This was dismissed, however, on September 30, 1970 for failure to state a cause of action and without the benefit of trying it upon the merits (Exh. 'H', Record, p. 195).

"On July 28, 1972, as Lots 3264 and 3265 applied by plaintiff on June 1, 1961, had ob-viously been designated as Lots 3283 and 3284 initially applied on August 1, 1963 by Candido de Pedro, predecessor-in-interest of Dole, coun-sel for plaintiff's Wilfredo Hervilla wrote the District Land Officer of the Bureau of Lands, stationed in Koronadal, South Cotabato, reques-ting for an Investigation of these Lots (Exh. 'G').

"On January 30, 1975, Jesus Ma. Baltazar, supplied with verbal information by Wilfredo Hervilla in his occular inspection about the facts surrounding the claim of plaintiff, [in an inves-tigation duly conducted with the aid of the map of the Bureau and in the presence of Candido de Pedro] submitted his report to the District Land Officer, recommending:

'x x x that PPa, Nos. (VIII-4) -40 54 and (VIII-4) 2054- A be amended accordingly such that it shall cover Lot No. 3284 and 3283, respectively both of GSS-269-D, Palkan, Polomolok, South Cotabato, instead of Lot Nos. 3264 and 3265, respectively, both of GSS-269-D, and Kablon, Tupi, South Cotabato (Exh. 'H', 'H1').'

"On June 15, 1973, Hernando Jereos, Provin-cial Officer of Koronadal, South Cotabato, pur-suant to the report of the Land Investigator, Jesus Ma. Baltazar, issued an order:

"That the Free Patent Applica-tion No. (VIII-4) 2054 and Free Patent Application No. (VIII-4) 2054-A of Wilfredo D. Hervilla for Lots Nos. 3264 and 3265, GSS-269-D, respectively, be, as hereby they are, modified in the sense that the disposition therein contained shall in the order named refer to Lots Nos. 3284 and 3283, GSS-269-D and, as thus modified, further action on the herein mentioned application held in abeyance pending the final determination of the adverse claim of Dolefil thereto' (Exh. 'D').

"So, on September 20, 1973, armed with that recommendation, counsel for plaintiff wrote Dolefil demanding the immediate return of Lots 3284 and 3283 to Wilfredo Hervilla as well as payment of actual and moral damages since the former's occupation and fencing of the land in March 1968, with a warning of a court suit if it failed (Exh. 'I', Record, p. 125). Falling on deaf ears, plaintiff instituted the present suit, engaged the services of a counsel in the sum of P2,000.00 (tsn. p. 115)."[2]

On the basis of the foregoing facts, the court a quo rendered a decision in favor of the National Development Com-pany (NDC, for short) and Dole Philippines, Inc., (Dolephil, for short), petitioners herein, by dismissing the herein private respondent's complaint against them. On 30 March 1979, private respondent (plaintiff in the trial

court) appealed to the Intermediate Appellate Court which, on 10 November 1983, rendered the herein assailed decision, thus:

"WHEREFORE, in view of all the foregoing considerations, the decision appealed from is hereby REVERSED and set aside and another one entered herein:

1. Declaring that plaintiff-appellant, Wilfredo Hervilla, the rightful possessor of the subject lots or lots designated as Lots Nos. 3283 and 3284, GSS-269-D, situated at Pal-kan, Polomolok, South Cotabato;
2. Ordering the NDD and DOLE to vacate the said lots and deliver possession thereof to the said plaintiff-appellant;
3. Ordering the defendants-appellees: Dole (Philippines, Inc.); Candido de Pedro and National Development Co. (NDC), jointly and severally to pay Wilfredo Hervilla P700.00 per annum, representing the value of the yearly harvest of the land at the time it was taken, with legal interest from the time of judicial demand until fully paid; and
4. Ordering the said defendants-appellees jointly and severally to pay P5,000.00 in the concept of attorney's fees and to pay the costs.[3]

A motion for reconsideration was timely filed by here-in petitioners and on 9 January 1984, a Supplement to the Motion for Reconsideration with Motion for New Trial was filed praying that the case be reopened and a new trial conducted for the purpose of submitting original certificate of Title Nos. 26651 and 26653. Petitioners alleged therein that, on 5 December 1980, or while the case was pending with respondent Court, the Bureau of Lands issued the free patents in favor of Petitioners' predecessor-in-interest.

On 9 August 1985, respondent Court issued a resolution denying the Motion for Reconsideration and Supplement to the Motion for Reconsideration with Motion for New Trial, stating thus:

"Finding that all the grounds and arguments raised in the Motion for Reconsideration are practically the same or at least included, considered and passed upon adversely against movant by this Court in its decision now sought to be reconsidered, the Court RESOLVED to DENY the Motion for Reconsideration.

Regarding the Supplement to the Motion for Reconsideration with Motion for New Trial, in which defendants-appellees now claim that the "issue of possession and ownership have been conclusively determined in favor of defendant-appellee National Development Co." per patents OCTs Nos. p-26651 and p-26653 both recently dated December 5, 1980, as Annexes "1" & "2", We do not think the Bureau of Lands could validly make a pronouncement on the issue of possession over the subject land upon which rested the issuance of the patents in favor of defendants-appellee, as against the prior finding of this Court that the plaintiff-appellant had the prior, superior and physical possession thereof, since said issue is the very same issue litigated in this case submitted by the parties to the court of justice. In other words, when the Bureau of Lands issued the patents and OCT's in question, the case was already pending in court; hence, sub judice. The issuance of the patents and Original Certificates of Title over the subject land, therefore, is null and void, the same having been issued, while the case is still pending in court.

In view thereof, this Court likewise hereby RESOLVES to DENY the Supplement to the Motion for Reconsideration with Motion for New Trial, for being unmeritorious.[4]

Hence, the present petition interposed by the National Development Company (NDC).

There is no question that the authority given to the Lands Department over the disposition of public lands[5] does not exclude the courts from their jurisdiction over possessory actions, the public character of the land notwithstanding[6] and that the exercise by the courts of such jurisdiction is not an interference with the

alienation, dis-position and control of public lands.[7] The question that is raised by petitioner NDC before this Court is: "May the Court in deciding a case involving recovery of possession declare null and void title issued by an administrative body or office during the pendency of such case? Specifically, is the Bureau of Lands precluded, on the ground that the matter is subjudice, from issuing a free patent during the pendency of a case in court for recovery of possession?"

The questions are answered in the negative. It is now well settled that the administration and disposition of public lands are committed by law to the Director of Lands primarily, and, ultimately, to the Secretary of Agriculture and Natural Resources.[8] The jurisdiction of the Bureau of Lands is confined to the determination of the respective rights of rival claimants to public lands[9] or to cases which involve disposition and alienation of public lands.[10] The jurisdiction of courts in possessory actions involving public lands is limited to the determination of who has the actual, physical possession or occupation of the land in question (in forcible entry cases, before municipal courts) or, the better right of possession (in accion publiciana, in cases before Courts of First Instance, now Regional Trial Courts).[11]

In forcible entry cases, moreover, title is not in issue; as a matter of fact, evidence thereof is expressly barred, except to prove the nature of the possession.[12]

In any event, petitioners' possession of the lands in question has been confirmed by the issuance of Free Patents in favor of their predecessor-in-interest. By this act, no-thing more is left for the courts to pursue. Thus, the private respondent's cause of action has been rendered moot and academic by the decision of the Director of Lands. In *Rallon vs. Ruiz*[13], this Court said:

"The reason then for possessory actions in court, namely, to "facilitate adjudication" by the Lands Department of a dispute over public land no longer exists. For, defendants' applications are no longer pending investigation. Defendants' possession of the lands disputed, for purposes of the free patents, has been confirmed in the administrative case. The administrative branch of the government has thus already spoken. Its action has lapsed into finality. Accordingly, plaintiffs' claim of possession is lost. Since plaintiffs' protests, in reference to possession, has already been resolved adversely against them by the Lands Department, nothing more is left for the courts to pursue."

In *Realiza vs. Duarte*[14], this Court stated:

"The land on which Duarte settled may be initially presumed as public land, his homestead application over it having been approved by the Director of Lands. It is our considered opinion that the approval of his homestead application legalized his possession, and such approval constitutes a justifiable defense against the action for revival of judgment as it necessarily affects the appellee's right of possession of the land from which Duarte was ordered ejected."

The principle was reiterated in *De los Santos vs. Rodriguez*[15] thus:

"At the time of the rendition of the decision in CA-G.R. No. 18912-R, the question of whether or not said portion was to be part of her homestead had not as yet been definitely settled. Accordingly, it became necessary to determine in that case who shall meanwhile be in possession. The aforementioned question was finally decided in favor of Rodriguez, in the order of the Director of Fisheries, dated February 27, 1959. There-after he is, therefore, the party entitled to said possession. In other words, the decision in CA-G.R. 18912-R may no longer be executed, not because the decision in CA-G.R. 32970-R has annulled it, but because of events subsequent to the first decision, which events have changed materially the situation between the parties. Thus, in *Hernandez vs. Clapis*, this Court, speaking through then Chief Justice Paras, said:

"In our opinion the present appeal is meritorious. While the decision in the forcible entry and detainer case is final, it can no longer be executed at least in so far as the possession of the land in question is concerned,

because, under section 4 of Commonwealth Act No. 141, the Director of Lands has direct executive control of the survey, classification, lease, sale or any other form of concession of disposition and management of the lands of the public domain, and his decisions as to questions of fact are conclusive when approved by the Secretary of Agriculture; and because the latter had already cancelled the right of plaintiff Maria L. Hernandez to administer the land in question and rejected both her sales application and that of her husband, plaintiff Antonio Hernandez, at the same time giving the defendants the preferential right to apply for said land in virtue of the provisions of Republic Act No. 65. The correctness of the final decision of the Secretary of Agriculture is not herein involved, but it is valid and binding until reversed in a proper proceeding by the court. The situation is not that the judgment in the forcible entry and detainer case has lost its vitality, but that the plaintiffs had subsequently ceased to be entitled to the relief awarded by said judgment." (Italics supplied.)

Moreover, records do not show that private respondent Wilfredo Hervilla ever filed a motion for reconsideration of the decision of the Director of Lands issuing free patent over the lands in dispute in favor of petitioners' predecessor-in-interest. Neither did he appeal said decision to the Secretary of Agriculture and Natural Resources, nor did he appeal to the office of the President of the Philippines. In short, Hervilla failed to exhaust administrative remedies, a flaw which, to our mind, is fatal to a court review. The decision of the Director of Lands has now become final. The Courts may no longer interfere with such decision.[16]

WHEREFORE, the decision dated 10 November 1983 and the resolution dated 9 August 1985 of the respondent Appellate Court are hereby reversed and set aside. The decision of the court a quo dated 28 February 1979 is hereby ordered reinstated. No costs.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Paras, Bidin, and Cortes, JJ., concur.

[1] Penned by Justice Ma. Rosario Quetulio-Losa, with the concurrence of Justices Ramon Gaviola and Eduardo Caguioa

[2] Decision of the IAC, pp. 2 - 5

[3] Decision of the Intermediate Appellate Court, pp. 16-17.

[4] Resolution of IAC, Rollo, pp. 70-71

[5] Section 4, Commonwealth Act 141

[6] Molina vs. De Bacud, No. L-20195, April 27, 1967, 19 SCRA 956, 959

[7] Pitarque vs. Sorilla, 92 Phil. 5, 15

[8] Francisco vs. Secretary of Agriculture and Natural Resources, No. L-31216, April 20, 1983, 121 SCRA 380, 383; Section 4, Commonwealth Act 141

[9] Pitarque vs. Sorilla, 92 Phil. 5, 12-13

[10] Rallon vs. Ruiz, Jr., No. L-23318, May 26, 1969, 28 SCRA 332

[11] Rallon vs. Ruiz, Jr. 28 SCRA 332, 341

[12] Section 4, Rule 72, Rules of Court; Pitarque vs. Sorilla, 90 Phil. 5, 12-13

[13] 28 SCRA 332, 342

[14] No. L-20527, August 31, 1967, 20 SCRA 1264, 1269

[15] No. L-23170, January 31, 1968, 22 SCRA 451, 457

[16] Rallon vs. Ruiz, *supra*.

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