

GUILLERMO BAÑAGA AND HEIRS OF JOSE C. TOLEDO, NAMELY, BIBLIA TOLEDO, JOSEFINA TOLEDO AND CONCEPCION VDA. DE TOLEDO, PETITIONERS, VS. COMMISSION ON THE SETTLEMENT OF LAND PROBLEM...

G.R. No. 66386. January 30, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking the annulment of the decision of the respondent Commission on the Settlement of Land Problems (COSLAP for brevity) dated September 2, 1983 in COSLAP Case No. 045, entitled, "Gregorio Daproza, Sr., petitioner-appellee, versus Guillermo Bañaga, et al., respondents-appellants," affirming the resolution of the Provincial Committee of the Presidential Action Committee on Land Problems (PACLAP for brevity) in Koronadal, South Cotabato.

The antecedent facts are as follows:

Sometime in September, 1961, respondent Daproza, Sr. learned that a friend, Natividad Anguis, was selling her land at Bo. Calutansahig, Makar, General Santos City, consisting of an area of 30 hectares. Since Daproza could not afford at that time to buy the whole lot, he entered into a verbal agreement with Jose Toledo, who was a family relative and friend, whereby the latter would pay for the whole lot and shall later re-sell to respondent Daproza one-half of the area of said lot upon reimbursement by Daproza of the purchase price.

On January 18, 1962, a Deed of Sale was executed by the seller Anguis in favor of Jose Toledo before the Notary Public. On April 7, 1963, respondent Daproza remitted to Toledo, the amount of P1,650.00 as initial payment of the whole amount of P3,200.00, as consideration for the one-half portion of the aforementioned lot to be sold to Daproza per verbal agreement with Toledo.

On December 15, 1963, Toledo, without the knowledge of respondent Daproza, caused the survey of the entire area of the said lot, which resulted in the approval of a plan by the Director of Lands on October 7, 1964 as Psu-206571. The land as surveyed has a total area of 30.6214 hectares consisting of three lots: 1) Lot 1 with an area of 22.8770 hectares, 2) Lot 2 with an area of 1.7426 hectares, and 3) Lot 3 with an area of 6.0018 hectares. Lots 2 and 3 of Psu-206571 are identical with Lot 2 of the scheme plan referred to in the receipt of payment issued by Toledo.

On January 8, 1965, petitioner Bañaga, son-in-law of Toledo, filed his free patent application No. 37-875 with the Bureau of Lands over Lot 1 of Psu-206571. However, it was only on February 8, 1965 that Toledo conveyed Lot 1 in favor of Bañaga for the sum of P5,000.00. Upon learning about the above sale made by Toledo, respondent Daproza filed his protest by wire to the Director of Lands on March 8, 1965 against petitioner Bañaga's free patent application No. 37-875.

On May 15, 1965, respondent Daproza had his share of 15.3107 hectares on the aforementioned land surveyed,

which was approved as Bureau of Lands Survey Plan Psu-222843. On May 2, 1963, Daproza filed his free patent application No. (VIII-4) 3584 for Lots 2 and 3 of his Psu-222843, which are the same Lots 2 and 3 of petitioner Bañaga's Psu-206571.

Toledo failed to oppose respondent Daproza's free patent application. Toledo's daughter, Biblia Toledo Bañaga, in representation of her father Toledo, filed a formal protest on December 31, 1971.

All the foregoing claims and protests remained unresolved and no investigation was conducted thereon by the Bureau of Lands.

On June 6, 1972, respondent Daproza wrote a letter to the PACLAP, South Cotabato requesting the latter to put under its jurisdiction for investigation and action the above-mentioned conflicting claims. Thus, the PACLAP South Cotabato granted the request and docketed the case as PPC Case No. 7213.

Petitioner Guillermo Bañaga and Jose Toledo, the latter represented by his daughter, petitioner Biblia Toledo Bañaga, questioned the jurisdiction of the PACLAP, South Cotabato in hearing the two claims alleging that the Director of Lands had already issued two orders directing the District Land Officer in Koronadal, South Cotabato to handle the investigation. After hearing both parties on the issue of jurisdiction, the PACLAP National Committee issued an order dated November 10, 1972, directing the District Land Office of the Bureau of Lands at Koronadal, South Cotabato to hold the formal investigation of the aforementioned claims. This order was issued after receipt by the Provincial PACLAP of a telegram from Secretary Arturo Tanco of the Department of Agriculture and Natural Resources stating that the case appears to be purely lands bureau cases and that the PACLAP may allow the Bureau of Lands to proceed with the investigation. In spite of the order of the PACLAP, however, no hearing was ever commenced by the District Land Office.

On September 23, 1976, respondent Daproza wrote again the PACLAP, South Cotabato, requesting the latter to resume investigation. On September 29, 1976, the District Land Officer recommended that the PACLAP Committee should take over the investigation of the pending case. The conflicting claims of petitioner Bañaga, Toledo and respondent Daproza were finally heard by the PACLAP Provincial Committee of Koronadal, South Cotabato.

After due hearing and investigation, the PACLAP Committee promulgated its resolution dated September 20, 1978, the dispositive portion of which reads:

"WHEREFORE, the Committee resolves, as it [is] hereby [resolved], to declare the existence of a verbal agreement [between] Jose C. Toledo and Gregorio D. Daproza, Sr. over [the] subject matter of Exh. "A" and "A-1", Daproza, and Exhibit "I" Toledo and Bañaga, and that such verbal agreement had been partially executed and performed. The Committee further resolves and orders:

"a) Plan Psu-206571 (Exh. 'C', Daproza) in the name of Jose C. Toledo be amended to exclude from Lot 1 thereof the area of SEVENTY THREE THOUSAND NINE HUNDRED TWENTY SIX (73,926) SQUARE METERS which is equivalent to and identical to Lot 1, Psu-222843 in the name of Gregorio D. Daproza, Sr. and to give due course to the latter Psu;

"b) Free Patent Application No. 37-875 of Guillermo T. Bañaga be amended to exclude from the [area] covered thereby an area of 73,926 square meters which is equivalent and identical to Lot 1, Psu-222843 and thereafter to give due course to said application on the remaining area and that Gregorio D. Daproza, Sr. be authorized to file with the District Land Office XI-3, Bureau of Lands, Koronadal, South Cotabato, the appropriate public land application on the area segregated or excluded which is identical to or equivalent to Lot 1 Psu-222843;

"c) To dismiss for lack of merits the protest filed by Jose C. Toledo, represented by Biblia T. Bañaga on the

Free Patent Application No. (viii-4) 3584 of Gregorio D. Daproza, Sr. and give due course to said free patent application; and

"d) To the end that no one shall unjustly enrich himself at the expense of others, Gregorio D. Daproza, Sr. is directed to pay to Jose C. Toledo or his duly authorized representative the amount of P1,600.00 the difference on the one-half (1/2) consideration of P3,250.00 and the amount actually paid by him which is P1,650.00.

"SO ORDERED." (p. 625, Records)

Not satisfied with the resolution of the PACLAP Provincial Committee, petitioner Bañaga appealed from the adverse decision to the national office of PACLAP, raising the following assigned errors:

“I

THE PROVINCIAL PACLAP COMMITTEE ERRED IN HOLDING THAT THERE EXISTS A VERBAL AGREEMENT BETWEEN JOSE TOLEDO AND GREGORIO D. DAPROZA, SR., IN THE MATTER OF THE ACQUISITION OF THE AREA, SUBJECT MATTER OF THE CONFLICTS WHEREBY THE FORMER SHALL ADVANCE THE COSTS AND UPON REIMBURSEMENT OF ONE-HALF (1/2) OF THE CONSIDERATION, TO CONVEY ONE-HALF (1/2) OF THE AREA TO THE LATTER;

“II

ASSUMING WITHOUT ADMITTING, THAT THERE WAS SUCH AN AGREEMENT, THE PROVINCIAL PACLAP COMMITTEE ERRED IN NOT HOLDING THAT ANY ACTION [TO] ENFORCE THE SAME IS BARRED BY THE STATUTE OF LIMITATIONS;

“III

THE PROVINCIAL PACLAP COMMITTEE ERRED IN AWARDING ONE-HALF (1/2) OF THE TOTAL AREA TO GREGORIO DAPROZA, SR. AND IN NOT HOLDING THE RECEIPT FOR P1,650.00 IN PAYMENT OF LOT NO. 2 IS NOT A PARTIAL PAYMENT FOR FIFTEEN (15) HECTARES OF THE LAND BUT AN EVIDENCE OF A DISTINCT AND INDEPENDENT TRANSACTION WHICH SPEAKS FOR ITSELF (RES IPSA LOQUITUR);

“IV

THE PROVINCIAL PACLAP COMMITTEE EXCEEDED ITS JURISDICTION AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IN EFFECT, IT DECLARED THE EFFICACY AND VALIDITY OF THE ALLEGED VERBAL CONTRACT AND IN EFFECT ORDERED THE ENFORCEMENT THEREOF, WHICH IS A MATTER WITHIN THE PROVINCE OF THE CIVIL COURTS TO DETERMINE." (p. 721, Records)

On September 21, 1979, Executive Order No. 561 was issued abolishing the Presidential Action Committee on Land Problems (PACLAP) and creating in its stead, the Commission on Settlement of Land Problems (COSLAP).

On September 2, 1983, respondent COSLAP rendered its decision, the dispositive portion of which states:

"WHEREFORE, finding no error in the appealed RESOLUTION dated September 2[0], 1978 of the Provincial PACLAP of South Cotabato, the same is hereby affirmed in toto.

"SO ORDERED." (p. 354, Records)

Petitioners moved for the reconsideration of the aforementioned decision. On January 17, 1984, said motion for reconsideration was denied.

Hence, the instant petition was filed.

Petitioners argue that the Provincial PACLAP in Koronadal was without jurisdiction to hear and resolve the instant controversy, and that it is the Bureau of Lands which has the jurisdiction over the dispute between the parties herein. They further submit that the COSLAP itself, which replaced the PACLAP has no jurisdiction to decide the protest and counter protest of the parties.

The petitioner's contentions are not impressed with merit. We find that the PACLAP Provincial Committee had jurisdiction in deciding the instant case. A brief history of the laws creating the Presidential Action Committee on Land Problems (PACLAP) will support Our conclusion.

The Presidential Action Committee on Land Problems (PACLAP) was created pursuant to Executive Order No. 251 on July 31, 1970. The objective of the law is "to expedite and coordinate the investigation and resolution of land disputes, streamline and shorten administrative procedures, adopt bold and decisive measures to solve land problems, and/or recommend other solutions" (Executive Order No. 251).

Executive Order No. 305 was later enacted on March 19, 1971 reconstituting the PACLAP and vesting in it exclusive jurisdiction over all cases involving public lands and other lands of the public domain.

On November 27, 1975, Presidential Decree No. 832 was passed into law, recognizing the PACLAP, the functions and duties of which are as follows, inter alia:

"1. Direct and coordinate the activities, particularly the investigation work, of the various government offices and agencies involved in land problems or disputes, and streamline administrative procedures to relieve small settlers and landholders and members of cultural minorities of the expense and time-consuming delay attendant to the solution of such problems or disputes;

"2. Refer for immediate action any land problem or dispute brought to the attention of the PACLAP, to any member agency having jurisdiction thereof: Provided, That when the Executive Committee decides to act on a case, its resolution, order or decision thereon, shall have the force and effect of a regular administrative resolution, order or decision, and shall be binding upon the parties therein involved and upon the member agency having jurisdiction thereof;

"3. Recommend to the President innovative, bold and decisive measures to resolve expeditiously cases involving, among others, a) public lands that have been titled in a manifestly erroneous or illegal manner, and b) implementation of decisions/resolutions of administrative/quasi-judicial agencies vested with jurisdiction to resolve land problems or disputes;

"4. Evolve and implement a system of procedure for the speedy investigation and resolution of land disputes or problems at provincial level, if possible;

"x x x."

P.D. No. 832 also authorized the creation of a Provincial PACLAP Committee for the provincial level, which shall be composed of the Provincial Commander, Philippine Constabulary as Chairman, the District Land Officer as Vice-Chairman, the Register of Deeds, the Provincial Fiscal, Asst. Provincial Commander and a representative each from the District Forester, Department of Agrarian Reform, PANAMIN and Citizens Legal Assistance Office, as members. The provincial committee is authorized to receive and investigate cases referred to it by private complainants, resolve cases that it can decide or settle by itself, and submit its report thereon to the PACLAP. It shall also submit to the PACLAP its report, together with the separate investigation report of the local agency concerned, regarding cases which are beyond its competence to resolve or decide (Sec. 4, P.D. 832).

The validity of P.D. No. 832 is not being questioned here. What is in dispute is petitioners' submission that the Provincial PACLAP Committee at Koronadal had no jurisdiction to decide the case.

The instant controversy involves the conflicting free patent applications of petitioners and respondents herein over a parcel of disposable public land. This properly falls within the PACLAP's exclusive jurisdiction over all cases involving public lands as provided for in Executive Order No. 305 and also within its general jurisdiction over all land disputes pursuant to P.D. No. 832. Inasmuch as the Provincial PACLAP Committees for the provinces were created and set up, mainly for the purpose of discharging the same powers and duties of the PACLAP Executive Committee in the provincial level, the Provincial PACLAP Committee at Koronadal is vested with jurisdiction over the controversy in the instant case. Avowedly, the purpose of the said law is to extend the force and authority of the PACLAP to the provinces for a speedy and effective disposition of the numerous land problems existing all over the country. Moreover, a reading of P.D. 832 clearly shows that the Provincial PACLAP Committee is vested with the jurisdiction to decide and resolve cases brought to it by private complainants, subject to review of course by the PACLAP Executive Committee.

Petitioner attaches significance to the telegram of the Secretary of Department of Agriculture and Natural Resources informing the Provincial PACLAP of Koronadal, South Cotabato that "CASE 12-13 APPEARS TO BE PURELY LANDS BUREAU CASE. HENCE, PACLAP COMMITTEE MAY ALLOW LANDS BUREAU TO PROCEED WITH INVESTIGATION BUT PACLAP SHALL FOLLOW UP EARLY TERMINATION THEREOF." (p. 41, Records; Emphasis Ours).

The foregoing should not be construed to mean that the Provincial PACLAP Committee is devoid of jurisdiction over the controversy. P.D. 832 enumerates the functions and duties of PACLAP. While paragraph 2 thereof empowers the PACLAP to "refer for immediate action any land problem or dispute brought to the attention of PACLAP to any member agency having jurisdiction thereof," this power of referral does not negate PACLAP's jurisdiction over the controversy as the same paragraph contains a proviso, to wit:

"x x x x x, That when the Executive Committee decides to act on a case, its resolution, order or decision thereof, shall have the force and effect of a regular administrative resolution, order or decision, and shall be binding upon the parties therein involved and upon the member agency having jurisdiction thereof."

This provision simply means that PACLAP may assume jurisdiction over the controversy instead of referring the same to any member agency and its resolution, order or decision thereon, shall have the force and effect of a regular administrative resolution, order or decision.

Records show that the pendency of the said dispute and inaction of the Bureau of Lands for a considerable period of time caused the PACLAP to finally resolve the conflicting claims upon the request of respondent Deproza. There is nothing irregular that can be deduced from the resumption of the investigation of the case by the PACLAP Provincial Committee. On the contrary, it had acted in accordance with the aim or intention of the Secretary of Agriculture and Natural Resources to ensure the early termination of the long-pending dispute. Besides, the Provincial Committee is empowered under P.D. 832 to resolve cases that it can decide or settle by itself (Sec. 4, P.D. 832). Further, even the District Land Officer of the Bureau of Lands had in effect rendered the referral ineffective as he had strongly recommended the resolution of the claims of the parties herein by the PACLAP Provincial Committee in his indorsement dated September 29, 1976, of the letter-request of respondent Daproza to resume investigation of the case.

Petitioners also contend in their petition that the COSLAP itself has no jurisdiction to resolve the protest and counter-protest of the parties because its power to resolve land problems is confined to those cases "which are critical and explosive in nature."

This contention is devoid of merit. It is true that Executive Order No. 561 provides that the COSLAP may take cognizance of cases which are "critical and explosive in nature considering, for instance, the large number of

parties involved, the presence or emergence of social tension or unrest, or other similar critical situations requiring immediate action.” However, the use of the word "may" does not mean that the COSLAP's jurisdiction is merely confined to the above mentioned cases. The provisions of the said Executive Order are clear that the COSLAP was created as a means of providing a more effective mechanism for the expeditious settlement of land problems in general, which are frequently the source of conflicts among settlers, landowners and cultural minorities. Besides, the COSLAP merely took over from the abolished PACLAP whose functions, including its jurisdiction, power and authority to act on, decide and resolve land disputes (Sec. 2, P.D. No. 832) were all assumed by it. The said Executive Order No. 561 containing said provision, being enacted only on September 21, 1979, cannot affect the exercise of jurisdiction of the PACLAP Provincial Committee of Koronadal on September 20, 1978. Neither can it affect the decision of the COSLAP which merely affirmed said exercise of jurisdiction.

Finally, assuming, in gratia argumenti, that the Provincial PACLAP Committee had no jurisdiction over the controversy, petitioners are already estopped from raising the issue of jurisdiction and from alleging at the same time that the case falls within the jurisdiction of the Bureau of Lands. Petitioners had not raised this matter of lack of jurisdiction in their appeal to the PACLAP which was later replaced by the COSLAP. What they alleged in their appeal, as one of their assigned errors, was that the PACLAP Provincial Committee exceeded its jurisdiction in ruling on the validity of the verbal agreement between the parties herein, which they contend to be properly within the jurisdiction of the civil courts. This is not the issue of jurisdiction which they are now raising before Us. In the instant petition, they now claim that jurisdiction belongs to the Bureau of Lands and not to the PACLAP.

This Court has time and again frowned upon the undesirable practice of party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse. Here, the principle of estoppel applies. Hence, a party may be estopped or barred from raising the question of jurisdiction for the first time in a petition before the Supreme Court when it failed to do so in the early stages of the proceedings. This principle should deter those who are disposed to trifle with the courts by taking inconsistent positions contrary to the elementary principles of right dealing and good faith (*Tijam v. Sibonghanoy*, No. L-21450, April 15, 1968, 23 SCRA 29; *Capilitan v. de la Cruz*, Nos. L-29536-37, February 28, 1974, 55 SCRA 706; *Marquez v. Secretary of Labor*, G.R. 80685, March 16, 1989). Further, the rule is settled that this Court cannot allow a litigant to assume a different posture when he comes before the court and challenges the position whereby the court, which is supposed to review administrative determinations, would not review, but determine and decide for the first time, a question not raised in the administrative forum (*Cuerdo v. Commission on Audit*, G.R. No. 84592, October 27, 1988).

ACCORDINGLY, the petition is DISMISSED for lack of merit and the assailed decision of the Commission on the Settlement of Land Problems dated September 2, 1983 is hereby AFFIRMED.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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