

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. JUDGE SINFOROSO FAÑGONIL, OF CFI BAGUIO AND BENGUET, BRANCH IV, MODESTA PARIS, LAGYA PARIS, SA...

G.R. Nos. 57112-21. November 29, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the registration of lots located within the Baguio Townsite Reservation. As background, it should be noted that in 1912 a petition was filed in the Court of Land Registration regarding the Baguio Townsite Reservation, Expediente de Reserva No. 1, GLRO Reservation Record No. 211. In 1914, when the Land Registration Court was abolished, the record was transferred to the Court of First Instance of Benguet.

The purpose of Case No. 211 was to determine once and for all what portions of the Baguio Townsite Reservation were private and registerable under Act No. 496 as provided in section 62 of Act No. 926. Once so determined, no further registration proceeding would be allowed (Secs. 3 and 4, Act No. 627).

The court on July 22, 1915 issued a notice requiring all persons claiming lots inside the reservation to file within six months from the date of the notice petitions for the registration of their titles under Act No. 496. On June 13, 1922, the General Land Registration Office submitted to the court a report regarding the applications for registration. The case was duly heard.

Judge C. M. Villareal in a decision dated November 13, 1922 held that all lands within the Reservation are public lands with the exception of (1) lands reserved for specified public uses and (2) lands claimed and adjudicated as private property. He ruled that claims for private lands by all persons not presented for registration within the period fixed in Act No. 627, in relation to the first Public Land Law, Act No. 926, were barred forever. (Secs. 3 and 4, Act No. 627.)

That 1922 decision established the rule that lots of the Baguio Townsite Reservation, being public domain, are not registerable under Act No. 496. As held by Judge Belmonte in a 1973 case, the Baguio Court of First Instance "has no jurisdiction to entertain any land registration proceedings" under Act No. 496 and the Public Land Law, covering any lot within the Baguio Townsite Reservation which was terminated in 1922 (Camdas vs. Director of Lands, L-37782, Resolution of this Court of March 8, 1974, dismissing petition for review of Judge Belmonte's ruling).

In the instant cases, after more than half a century from the 1922 decision declaring the townsite public domain, or during the years 1972 to 1976, Modesta Paris, Lagya Paris, Samuel Baliwan, Pablo Ramos, Jr., Josephine Abanag, Menita T. Victor, Emiliano Bautista and Odi Dianson filed with the Court of First Instance of Baguio applications for the registration of lots (with considerable areas) inside the Baguio Townsite Reservation.

Alternatively, they allege that in case the lots are not registerable under Act No. 496, then section 48(b) and (c) of

the Public Land Law should be applied because they and their predecessors have been in possession of the lots for more than thirty years.

The Director of Lands opposed the applications. He filed motions to dismiss on the grounds of lack of jurisdiction, prescription and *res judicata*. He relied on the decision in the first registration case, a proceeding in rem, which barred all subsequent registrations of the Baguio Townsite lots. He contended that the disposition of said lots should be made by the Director of Lands under Chapter 11 of the Public Land Law regarding Townsite Reservations. (See *Cojuangco vs. Marcos*, 82 SCRA 156).

The trial judge admits that section 48 cannot be invoked by the applicants because it applies only to disposable agricultural lands situated outside the reservation. He concedes that lands within the Baguio Townsite Reservation may not be acquired by long possession for over thirty years subsequent to Case No. 211 (p. 195, Rollo).

But he refused to dismiss the applications because in his opinion "there is a necessity of (for) the pre-sentation of satisfactory evidence in a regular hearing as to the presence or absence of complete service of notice" so that the court can determine whether the applications are barred by *res judicata*. He relies on the isolated case of *Zarate vs. Director of Lands*, 58 Phil. 156.

The Solicitor General assailed by certiorari that order denying the motions to dismiss.

Sections 3 and 4 of Act No. 627, the law governing military reservations, contemplate notification to two classes of persons, namely, (1) those who are living upon or in visible possession of any part of the military reservation and (2) persons who are not living upon or in visible possession but are absentees.

A distinction is made between these two classes of persons as to the manner in which service of the notice shall be made. Service is complete as to absentees when publication of the notice in the newspaper is completed and duly fixed upon the four corners of the premises. The six-month period commences to run from that time.

On the other hand, as to those who are living upon or in visible possession of the lands, service is not complete, and the six-month period does not begin to run until the notice is served upon them personally. Their rights relative to the period within which they must respond are determined by the date of the personal service.

Their notice was a personal notice given by personal service. Only such notice could set the running of the six-month period against them. (*Lagariza, Saba and Garcia vs. Commanding General*, 22 Phil. 297, 302; *Zarate vs. Director of Lands*, 58 Phil. 156, 159-160.)

As already noted, the fact is that the notice in Case No. 211 was issued on July 22, 1915. The clerk of court certified that 134 persons living upon or in visible possession of any part of the reservation were personally served with notice of the reservation. Section 3 of Act No. 627 provides that the certificate of the clerk of court is "conclusive proof of service". (*Zarate case*, pp. 158, 162.)

In the *Zarate case*, the applications for registration of lots within the Baguio Townsite Reservation were filed in 1930 and 1931 or more than eight years after the decision was rendered in 1922.

The *Zarate case* is truly an exceptional case because the applicants were able to prove that in 1915 they were in visible occupation of their lots and the clerk of court did not serve personal notice upon them. The expediente of Case No. 211 was then still existing. The *Zarate case* cannot be a precedent at this late hour.

The situation in the *Zarate case* has not been duplicated since 1933. Judge Fañgonil seeks to apply the ruling therein to the instant eight cases. We find that his order is unwarranted or unreasonable. It would reopen Case No. 211. It would give way to baseless litigations intended to be foreclosed by that 1912 case.

Private claimants to lands within the Baguio Townsite Reservation were given a chance to register their lands in Case No. 211. The provisions of Act No. 627, allowing them to do so, are in harmony with the 1909 epochal decision of Justice Holmes in *Cariño vs. Insular Government*, 212 U. S. 449, 41 Phil. 935. The two Igorots named Zarate and those who were allowed to register their lots in Case No. 211, like Mateo Cariño, the Igorot involved in the Cariño case, inherited their lands from their ancestors. They had possession of the lands since time immemorial. The Igorots were allowed to avail themselves of registration under Act No. 496.

Here, the eight applicants do not base their applications under Act No. 496 on any purchase or grant from the State nor on possession since time immemorial. That is why Act No. 496 cannot apply to them. (See *Manila Electric Company vs. Castro-Bartolome*, L-49623, June 29, 1982, 114 SCRA 799.) They are not "Igorot claimants" (See p. 35, Memo of Solicitor General).

Moreover, Annex I of the petition for certiorari shows that the previous attempts of some applicants and their predecessors to reopen Case No. 211 were dismissed as shown below:

Name

Date filed

Date dismissed

- 1) Samuel Baliwan Dec. 27, 1968 Aug. 15, 1970
- 2) Tommy Banguillas predecessor of Pablo Ramos, Jr. May 6, 1965 June 19, 1967
- 3) Josephine Abanag Jan. 9, 1961 July 9, 1963
- 4) Sergio Molintas, predecessor of Josephine Abanag Dec. 26, 1968 Oct. 31, 1974
- 5) Josephine Abanag April 26, 1966 Nov. 12, 1974
- 6) Lagya Paris Oct. 15, 1965 Nov. 13, 1974

In the case of Abanag, she succeeded to two lots claimed by Sumay and Molintas for which Torrens titles were issued in Case No. 211 on October 21, 1919 (Annexes J and K of Petition). The lots, which Abanag now seeks to register, were not previously claimed by her predecessors in Case No. 211 (p. 33, Sol. Gen.'s Memo).

We hold that the trial court erred in requiring the presentation of evidence as to the notice required under Act No. 627. Such evidence cannot be produced at this time because the court record of Case No. 211 was completely destroyed during the last war.

Anyway, the applicants have the burden of proving that their predecessors were living upon or in visible possession of the lands in 1915 and were not served any notice. If they have such evidence, apart from unreliable oral testimony, they should have produced it during the hearing on the motions to dismiss.

To support his motions to dismiss, the Solicitor General introduced evidence proving that after Case No. 211 it has always been necessary to issue Presidential proclamations for the disposition of portions of the Baguio Townsite Reservation (Annex E of Petition).

The period of more than fifty years completely bars the applicants from securing relief due to the alleged lack of personal notice to their predecessors. The law helps the vigilant but not those who sleep on their rights. "For time is a means of destroying obligations and actions, because time runs against the slothful and contemners of their

own rights."

WHEREFORE, the order denying the motions to dis-miss is reversed and set aside. The applications for registration are hereby dismissed. No costs.

SO ORDERED.

Makasiar (Chairman), Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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