Supreme Court E-Library

is sought to be probated must be considered as subsisting, it finds no application to the present case, as petitioner did not file a separate action but instead sought to have the other Will probated in the same special proceeding then pending before respondent Court. He is therefore entitled to have our decision reconsidered.

WHEREFORE, the decision of March 28, 1969 is set aside and the petition for certiorari granted, with petitioner being thus entitled to the refund of the second docket fee of ₱940.00 paid under Receipt No. J-1459986 issued on December 2, 1965, and the order of respondent Court of November 6, 1965 ordering such payment of the second docket fee annulled. Without pronouncement as to costs.

Reyes, J.B.L. (Acting C.J.), Dizon, Makalintal, Zaldivar, Sanchez and *Capistrano, JJ.,* concur.

Teehankee and *Barredo, JJ.,* took no part.

Concepcion, C.J., and *Ruiz Castro, J.,* are on official leave.

[G.R. No. L-23315. May 26, 1969]

DESIDERIO S. RALLON, plaintiff, *vs.* PACIFICO RUIZ, JR., EUFEMIO RUIZ, ANTONIO GERAGA, TIMOTEO BULILIS, defendants.

[G.R. No. L-23316. May 26, 1969]

VICENTE RALLON, JR., plaintiff, *vs.* PACIFICO RUIZ, JR., ESPERIDION ROSALEJOS, ANASTACIO CAÑO, LINO RITA, defendants.

[G.R. No. L-23317. May 26, 1969]

FELICISIMA S. RALLON, plaintiff, *vs.* PACIFICO RUIZ, JR., OLEGARIO CORDILLA, VIDAL GERAGA, TIMOTEO BULILIS, defendants.

[G.R. No. L-23318. May 26, 1969]

CRESENCIO S. RALLON, plaintiff, *vs.* EUFEMIO RUIZ, SIMEON UBAS, GABRIEL ALIPOYO, defendants.

Supreme Court E-Library

SYLLABUS

1. LAND REGISTRATION; PUBLIC LANDS; EXECUTIVE CONTROL, ADMINISTRATION, DISPOSITION AND ALIENATION THEREOF; POWER VESTED IN DIRECTOR OF LANDS.— The power of executive control, administration, disposition and alienation of public lands is lodged with the Director of Lands subject, of course, to the control of the Secretary of Agricultûre and Natural Resources. This is a rule set out in the law and fairly stabilized by jurisprudence.

2. ID.; ID.; POSSESSORY ACTIONS THEREON DURING PENDENCY OF ADMINISTRATIVE PROCEEDINGS BEFORE LANDS BUREAU; JURISDICTION OF COURTS TO ENTERTAIN SAME.— There should be no question by now that courts have jurisdiction over possessory actions involving public lands, even if the same are involved in administrative cases before the Bureau of Lands. And this, because the issue of physical possession raised before the courts is independent of the question of disposition and alienation of public lands which should be threshed out in the Bureau of Lands.

3. ID.; ID.; ID.; REASON FOR POSSESSORY ACTIONS IN COURT NO LONGER EXISTS.—The reason 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 cases. The administrative branch of the government has thus already spoken. Its action has lapsed into finality. Accordingly, plaintiffs' claim of possession is lost. Since plaintiff's protest, in reference to possession, has already been resolved adversely against them by the Lands Department, nothing more is left for the courts to pursue.

4. ID.; ID.; ID.; POSSESSORY ACTIONS, MOOT AND ACADEMIC IN CASE AT BAR.— Where defendants' free patent applications over the subject lands have been given due course by the *prior* decisions of the Director of Lands and the Secretary of Agriculture and Natural Resources, the possessory actions in the case at bar have been rendered moot and academic.

5. ADMINISTRATIVE LAW; ADMINISTRATIVE TRIBUNALS; EXHAUSTION OF ADMINISTRATIVE REMEDIES BEFORE COURT REVIEW, FAILURE THEREOF, FATAL.—Where the

Supreme Court E-Library

plaintiffs failed to exhaust their administrative remedies by not filing their motion for reconsideration with the Secretary of Agriculture and Natural Resources on time and by not appealing from his decision to the Office of the President of the Philippines, it is no longer within the power of the courts of justice to interfere thereon. Long familiar is the precept that failure to exhaust administrative remedies is fatal to any court review.

APPEARANCES OF COUNSEL

Filiberto Leonardo and *Benjamin Rallon* for the plaintiffs.
Anastacio Mumar and *Jovenal D. Osorio* for defendants.

DECISION

SANCHEZ, *J.*:

Four (4) possessory actions were simultaneously brought before the Court of First Instance of Bohol covering diverse portions of a piece of public land, Lot 46, Cadastral Case No. 15, G.L.R.O. Record 1469, located at San Antonio, Borja (now Sagbayan), Bohol.[1] Following a protracted joint trial, judgment was there rendered by the Bohol court dismissing the complaints upon the ground that "it has no jurisdiction to decide the four cases involved herein" for the reason that the jurisdiction of courts "only refers to forcible entry case(s)" and that: "Plaintiff's Exhibit B dated April 13, 1954 and defendant's Exhibits 31, 32, 33, 34, 35 and 36 reveal that the Director of Lands has taken action on the controversy concerning the parcel of land involved

[1] Civil Case 964, entitled "Desiderio S. Rallon, Plaintiff *vs.*Pacifico Ruiz, Jr., Eufemio Ruiz, Antonio Geraga, Timoteo Bulilis, and the Director of Lands, Defendants"; Civil Case 965, entitled" Vicente Rallon, Jr., Plaintiff *versus* Pacifico Ruiz, Jr., Esperidion Rosalejos, Anastacio Caño, Lino Rita, and the Director of Lands, Defendants"; Civil Case 966, entitled "Felicisima S. Rallon, Plaintiff, versus Pacifico Ruiz, Jr., Olegario Cordilla, Vidal Geraga, Timoteo Bulilis, and the Director of Lands, Defendants"; and Civil Case 967, entiled "Cresencio S. Rallon, Plaintiff, versus Eufemio Ruiz, Simeon Ubas, Gabriel Alipoyo, and the Director of Lands, Defendants."

Supreme Court E-Library

in the four (4) cases, now subject of our consideration. With this action taken by the Director of Lands, we find more reasons to refrain from interfering with the proceedings conducted by said officer."[2]

The background facts are:

On September 30, 1935, in the cadastral case just mentioned, the cadastral court rendered judgment declaring Lot 46 with an area of about 165 hectares a public forest.

Previous to said cadastral proceeding, however, the same Lot 46 was sold by one Jesus Vaño[3] to one Vicente Rallon. It would appear that Josefa Rallon and Petrona Rallon, aunts of Vicente, were issued a timber license, on said Lot 46,[4] and a campsite permit for ten (10) hectares thereof, respectively, both by the Bureau of Forestry. Upon a private document,[5] on April 15, 1943, for and in consideration of one peso, Josefa and Petrona Rallon, as such holders of ordinary timber license and campsite permit, transferred their rights of possession to the land known as Catagbacan Forest to their nephews and niece, the four plaintiffs, Desiderio S. Rallon, Felicisima S. Rallon, Vicente Rallon, Jr., and Cresencio S. Rallon, with specific areas for each. This notwithstanding, the records of the Bureau of Forestry do not show the names of plaintiffs as licensees or permittees. The record discloses that the license of Josefa Rallon expired on June 30, 1941.[6] There is no evidence of renewal. Josefa Rallon died in March, 1951; Petrona Rallon died in April, 1954.[7]

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[2] R.A., p. 544.

[3] The application for registration of Jesus Vaño over Lot 46 was denied by the Supreme Court for being forest land in the case of *Vaño vs. Government,* 41 Phil. 161, 162 (promulgated on November 15, 1920).

[4] Exhibit 19 shows that as of 1940, the area covered by the timber license was only 45 hectares, although the four complaints uniformly allege that such timber license covered the entire area of 165 hectares.

[5] Exhibit Z-1, Record.

[6] *See* Exhibit 20.

[7] Tr., October 11, 1960, p. 168.

Supreme Court E-Library

The trouble for defendants, who appear to be settlers on portions of Lot 46,[8] began when, at the instance of Vicente Rallon, the Government of the Philippines sued them and/or their predecessors for illegal occupancy of that forest land.[9] They were required to restore to the Philippine Government the respective portions occupied by each pursuant to the decision of the Court of First Instance of Bohol of December 31, 1935.[10] Their homes were demolished. Because they reentered the land, they were punished for contempt of court and sentenced to ten (10) days' imprisonment which they served.[11]

At various dates in August of 1952,[12] defendants filed their respective applications[13] for free patent in the Bureau of Lands, except defendant Timoteo Bulilis whose free patent application was dated February 25, 1953. It was only on May 3, 1954 that each of the plaintiffs lodged their simultaneous sales applications in the same bureau for portions of Lot 46. On the same day, they protested the free patent applications of defendants.

The initial hearing of the controversy between defendants on the one hand and plaintiffs on the other was conducted by the Provincial Land Officer of Bohol on December 20, 1954. It was to be continued on August 16, 1955, was later reset for September 6 and 7, 1955.

Then came the present court cases. On August 26, 1955, before the Provincial Land Officer of Bohol could continue with the investigation, the Rallons simultaneously filed in the Court of

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[8] *See* Exhibit H-1.

[9] Civil Case 1419, entitled "Gobierno de las Islas Filipinas, Demandante, contra Esperidion Rosalejos, Anacleto Rosalejos, Maximo Enad, Antonio Geraga, Anastacio Caño, Emiliano Caño, Simeon Ubas, Alfonso Regidor, Gabriel Cordilla, Alfonso Tampi, Gregorio Perocho, Felipe Perocho, Demandados," Exhibit B.

[10] Exhibits C and D.

[11] Criminal Case 4357, for contempt, entitled "El Pueblo de Filipinas, Querellante, contra Esperidion S. Rosalejos y otros, Acusados," Exhibits F and G.

[12] The exhibits show that these applications were received by the District Land Office in Cebu City on March 18, 1953.

[13] Notarized on August 13, 1952.

Supreme Court E-Library

First Instance of Bohol the present actions to recover possession. The Rallons complained of having been illegally dispossessed in March 1952 of their lands (forming portions of Lot 46) by defendants in the portions set out in their respective complaints. The object of these cases, according to the Rallons, was *to facilitate the adjudication of the administrative dispute* as soon as the question of priority of possession was settled.[14] Plaintiffs made it clear that they acquired their rights from their aunts Josefa and Petrona Rallon. They also averred possession at the time when the territory became alienable.

In all of the four complaints, the Director of Lands was made defendant. On September 13, 1955, the Director of Lands moved to dismiss the four complaints for lack of jurisdiction. Although plaintiffs at first opposed the motion, nonetheless, on October 1, 1955, they moved to exclude the Director of Lands as defendant upon their claim that counsel for the Director of Lands made the court to understand that the Director would suspend hearing on plaintiffs' protests, would "respect the decision of this Honorable Court and would take into account the same in the final award and adjudication that he may make with reference to the public land in question."[15] The lower court, however, on October 17, 1955, dismissed the cases with respect to the Director of Lands "on the ground that the plaintiff has absolutely no cause of action against the latter."[16]

Failing in their attempt to secure a similar dismissal as against them, defendants filed their respective answers substantially along similar lines. Their common ground was that they or their predecessors started possession at various dates since the early 1920s; that in 1932, they declared the lands for taxation purposes; that they had not failed to pay the taxes thereon; that after the contempt proceedings against them they went back to the lands;

[14] R.A., pp. 14, 89, 164, 238.

[15] R.A.,p. 459.

[16] R.A.,pp. 463-464.

Supreme Court E-Library

that they brought their plight to the Secretary of Agriculture and Natural Resources and to the President; that in 1940, they applied for homestead covering their respective portions; that their applications were denied because the lands at that time were within the forest zone; that it was at their own initiative and efforts that the lands were released from the forest zone on February 27, 1952; that plaintiffs did not have actual possession; that a license or permit does not carry the right of possession but only the right to cut, collect and remove forest products; that said right was revoked or cancelled by the release of the lands into the disposable public domain; that licenses or permits are non-negotiable and non-transferable and cease upon the death of the licensees or grantees; that plaintiffs have not acquired any rights from Josefa and Petrona Rallon; and that such transfer, if any, from Josefa and Petrona Rallon to plaintiffs did not have the consent or approval of the Bureau of Forestry. They reiterated their averment of want of jurisdiction which was the ground of their motion to dismiss.

Back to the Bureau of Lands. On May 29, 1956, the Director of Lands ordered the Bohol Provincial Land Officer to proceed with the investigation of the administrative case between plaintiffs and defendants. The Director took the view that because of the court's ruling that plaintiffs "have absolutely no cause of action" against him, he entertained the belief that his office "may now proceed independently of the judicial proceedings."

On August 2, 1956, plaintiffs requested postponement of the investigation by the Lands Office for the reason that the court cases had not as yet been finally decided or determined. Because of the Director's directive, the Provincial Land Officer set the continuation of the hearing for August 3, 4 and 6, 1956. Plaintiffs chose not to appear thereat. Defendants presented evidence ex-parte.

On August 7, 1956, after formal hearing was terminated, plaintiffs appeared at the Provincial Land Office. There, they were apprised

Supreme Court E-Library

of the hearing which ended the day previous, that is, the 6th. They were asked if they were ready to present their evidence. They answered in the negative. They were then informed that an ocular inspection would be conducted on the following day, August 8, at which they were requested to be present. But at the ocular inspection, the plaintiffs likewise did not appear.

On the face of the foregoing, the Provincial Land Officer rendered his report on August 10, 1956 to the Director of Lands. His findings were that defendants were actual occupants of the lands they applied for, entered the lands as early as 1920, introduced considerable improvements thereon; that the lands were converted into ricelands and corn fields, planted to root crops, fruit trees, coconut trees, jackfruit trees and bamboo; that houses were built thereon. There was also the explicit finding that plaintiffs had not occupied any portions of the lands in controversy nor did they have any improvements on the same. The Provincial Land Officer's recommendation, accordingly, was that the protests of plaintiffs be dismissed and the free patent applications of defendants be given due course.

It was on May, 11, 1957 when the Director of Lands entered an order dismissing plaintiff's claims and giving due course to defendants' free patent applications. Plaintiffs (protestants) moved to reconsider. The Director of Lands issued the denial order on September 13, 1957. He there dwelt on the power of the Director of Lands to investigate and proceed to dispose of public land to whomsoever has a better right to acquire the same under the provisions of the Public Land Act. And this, independently of the powers of the courts in deciding possessory questions arising out of the forcible entry, usurpation or similar acts of dispossession. The Director found that plaintiffs herein "had persistently refused to submit to the investigation [of his Office] without justifiable cause" and ordered that, upon the facts established in the investigation, plaintiffs' claims be dismissed.

Plaintiffs herein appealed to the Secretary of Agriculture and Natural Resources. On January 13, 1958, Acting Secretary Jose

Supreme Court E-Library

M. Trinidad rendered a decision reciting the facts and affirming the order of the Director of Lands of May 11, 1957. Although plaintiffs received copy of this decision on January 28, 1958, they only moved to reconsider on March 26, 1958. On April 22, 1958, Secretary Juan de G. Rodriguez ruled that upon the provisions of Section 12 of Lands Administrative Order No. 6, the decision of his Office becomes final after the lapse of thirty (30) days from the date of its receipt by the interested party, declared the plaintiffs' motion for reconsideration was beyond the reglementary period and, accordingly, denied the same. No appeal from the Secretary's decision to the Office of the President was taken by plaintiffs.

Upon due process and jurisdictional grounds, plaintiffs went to the Court of First Instance of Bohol on June 10, 1958 on certiorari to annul the decisions and orders of the Director of Lands and the Secretary of Agriculture and Natural Resources just adverted to. On October 6, 1959, the Court of First Instance of Bohol rendered judgment annulling the administrative decisions and orders aforesaid and directing the Director of Lands to reinvestigate.

It was defendants' turn to go to the Court of Appeals on appeal challenging the correctness of the Bohol court's decision.[17] On November 3, 1965, the Court of Appeals reversed the Bohol court by declaring that plaintiffs had not been deprived of their day in court, that the absence of the Rallons from the administrative investigation was due to their own fault and that they were thus not denied opportunity to be heard. More importantly, the Court of Appeals pronounced that the decision of the Secretary of Agriculture and Natural Resources had already become "final and definite." The Court of Appeals' judgment of November 3, 1965 had also become final.

[17] CA-G.R. 26946-R entitled "Desiderio S. Rallon, Felecisima S. Rallon, Vicente Rallon, Jr, and Cresencio S. Rallon, Petitioners-appellees, *versus* Director of Lands, Hon. Secretary of Agriculture and Natural Resources, Gabriel Alipoyo, Timoteo Bulilis, Anastacio Caño, Antonio Geraga, Vidal Geraga, Lino Rita, Esperidion Rosalejos, Eugenio Ruiz and Pacifico Ruiz, Jr., Respondents-appellants."

Supreme Court E-Library

It was only on April 18, 1963—or over five (5) years after the Secretary's decision in defendant's favor-that the trial court rendered judgment in the present cases, mentioned earlier in this opinion. Plaintiffs appealed direct to this Court on purely questions of law, and assigned the following as errors: (1) "The lower court erred in dismissing the four cases involved herein and in holding that it has no jurisdiction to decide the same"; and (2) "The lower court erred in not granting the reliefs prayed for in the four complaints involved herein."

1. The power of executive control, administration, disposition and alienation of public lands is lodged with the Director of Lands subject, of course, to the control of the Secretary of Agriculture and Natural Resources. This is a rule set out in the law,[18] and fairly stabilized by jurisprudence.[19] Nonetheless, there should be no question by now that courts have jurisdiction over possessory actions involving public lands, even if the same are involved in administrative cases before the Bureau of Lands.

In *Pitargue vs. Sorilla,* 92 Phil. 5, the question as set out by this Court is this: "Do courts have jurisdiction to entertain an action of forcible entry instituted by a *bona fide* applicant of public land, who is in occupation and peaceful possession thereof and who has introduced improvements, against one who deprives him of the possession thereof *before award and pending investigation of the application*?"[20] We then ruled that the remedy of forcible entry may be pursued independently of the administrative case in the Bureau of Lands. We there expressed the rationale of the rule, thus:

". . . The vesting of the Lands Department with authority to administer, dispose, and alienate public lands, therefore, must not be understood as

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[18] Sections 3 and 4, Commonwealth Act 141, as amended.

[19] *See cases cited in* City of Baguio *vs.* Marcos, L-26100, February 28, 1969, *at footnote 7.*

[20] At p. 9; italics supplied.

Supreme Court E-Library

depriving the other branches of the Government of the exercise of their respective functions or powers thereon, such as the authority to stop disorders and quell breaches of the peace by the police, and the authority on the part of the courts to take jurisdiction over possessory actions arising therefrom not involving, directly or indirectly, alienation and disposition.

Our attention has been called to a principle enunciated in American courts to the effect that courts have no jurisdiction to determine the rights of claimants to public lands, and that until the disposition of the land has passed from the control of the Federal Government, the courts will not interfere with the administration of matters concerning the same. (50 C.J. 1093-1094.) We have no quarrel with this principle. The determination of the respective rights of rival claimants to public lands *is different* from the determination of who has the actual physical possession or occupation with a view to protecting the same and preventing disorder and breaches of the peace. A judgment of the court ordering restitution of the possession of a parcel of land to the actual occupants, who has been deprived thereof by another through the use of force or in any other illegal manner, *can never be 'prejudicial interference' with the disposition or alienation of public lands.* On the other hand, if courts were deprived of jurisdiction of cases involving conflicts of possession, that threat of judicial action against breaches of the peace committed on public lands would be eliminated, and a state of lawlessness would probably be produced between applicants, occupants or squatters, where force or might, not right or justice, would rule."[21]

In *Bohayang vs. Maceren,* 96 Phil. 390, 392, the lower court suspended the hearing of a case for *acción publiciana* pending the decision of the Director of Lands in the administrative case being heard by him. This Court overruled the lower court and pronounced that: ". . . an action for recovery of possession is an urgent matter which must be decided promptly to forestall breaches of peace, bodily injury to person, mayhem, or perhaps loss of life. It is the duty of the Court to act swiftly and expeditiously in cases of that nature."

Recently, we made a categorical statement in *Molina vs. De Bacud* (1967), 19 SCRA 956, 959,[22] that "[t]he authority given to

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[21] At pp. 12-13; italics supplied.

[22] *Citing* Bohayang *vs.* Maceren, *supra,* and Pitargue *vs.* Sorilla, *supra.*

Supreme Court E-Library

the Lands Department over the disposition of public lands does not exclude the courts from their jurisdiction over possessory actions, the public character of the land notwithstanding."[23]

Thus it is, that the jurisdictional question raised below must be decided in the affirmative: courts have jurisdiction over possessory actions involving public lands to determine the issue of physical possession (in forcible entry cases before inferior courts) or the better right of possession in *acción publiciana* cases before courts of first instance).[24] And this, because the issue of physical possession raised before the courts is independent of the question of disposition and alienation of public lands which should be threshed out in the Bureau of Lands.

2. Withal, plaintiffs' cause still fails. The possessory actions before us have been rendered moot and academic by the *prior* decisions of the Director of Lands and the Secretary of Agriculture and Natural Resources heretofore referred to.

The validity of the proceedings leading to these administrative decisions have been put to a test in certiorari proceedings initiated by plaintiffs against defendants, the Bureau of Lands and the Secretary of Agriculture and Natural Resources in the Bohol Court. The judgment of the Court of Appeals on appeal declared that said proceedings were not tainted with abuse of discretion which would call for the supervisory power of the courts. Because, as the Court of Appeals held, plaintiffs could only be blamed for their failure to appear in the administrative proceedings and for allowing the decision of the Secretary of Agriculture and Natural Resources to become "final and definite." We cannot turn our back on the judgment of the Court of Appeals, now final.

No longer is it within the power of the courts of justice to interfere with the Lands Department decision. More so because

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[23] *See also:* Villaflor *vs.* Reyes (1968), 22 SCRA 385, 392-393, *citing* Pitargue *vs.* Sorilla, *supra;* Madamba *vs.* Araneta, L-12017, August 28, 1959; Bueno *vs.* Patanao, L-13882, December 27, 1963; Angcao *vs.* Punzalan, L-20521, December 28, 1964.

[24] Bishop of Cebu *vs.* Mangaron, 6 Phil. 286, 291.

Supreme Court E-Library

plaintiffs failed to exhaust their administrative remedies by not filing their motion for reconsideration with the Secretary of Agriculture and Natural Resources on time and by not appealing from said decision to the Office of the President of the Philippines. Long familiar is the precept that failure to exhaust administrative remedies is fatal to any court review.[25]

The reason then for possessory actions in court, namely to "facilitate adjudication" by the Lands Department of a dispute over public land[26] 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.

The case of *Hernandez vs. Clapis,* 98 Phil. 684, cited in *Nazal vs. Belmonte* (May 23, 1968), 23 SCRA 700, 703, is in point. In *Hernandez,* a forcible entry and detainer case was decided in favor of plaintiffs and against defendants. This decision was affirmed by the Supreme Court. Execution of the judgment was objected to upon the ground that during the pendency of the appeal before the Supreme Court, the Secretary of Agriculture and Natural Resources had rejected the sales application of plaintiffs and allowed the defendants to purchase the land in dispute. In reversing the order of execution issued by the lower court, "in so far as the matter of possession of the land in question is concerned," we said: "While the decision in the forcible entry

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[25] Calo *vs.* Fuertes, 5 SCRA 397, 399-400; Ham *vs.* Bachrach Motor Co., Inc., L-13677, October 31, 1960, *citing cases;* Lacson-Magallanes Co., Inc. *vs.* Paño, 21 SCRA 895, 899. *See also:* Miguel *vs.* Reyes, 93 Phil. 542, 544; Lubugan *vs.* Castrillo, 101 Phil. 1229, 1230; Lachica *vs.* Ducusin, 102 Phil. 551, 554; Rellin *vs.* Cabigas, L-15926, October 31, 1960; Balmonte *vs.* Marcelo, 1 SCRA 1028, 1032.

[26] Pitargue *vs.* Sorilla, *supra,* at p. 13.

Supreme Court E-Library

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 or 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 virtuality, but that the plaintiffs had subsequently *ceased to be entitled to the relief awarded by said judgment.*"[27]

In *Realiza vs. Duarte* (August 31, 1967), 20 SCRA 1264, after *the entry of judgment* in a forcible entry case, the homestead application of Duarte was approved by the Director of Lands. In an action for revival of the forcible entry judgment, we ruled "that the approval of his (Duarte's) homestead application *legalized his position,* and such approval constitutes a *justiciable defense* against the action for revival of judgment as it *necessarily affects the appellee's* (Realiza's) *right of possession of the land* for which Duarte was ordered ejected."[28] We, accordingly, reversed the decision against Duarte "with respect to his possession of the land."

Also on this point, we quote from our opinion in *De los Santos vs. Rodriguez* (January 31, 1968), 22 SCRA 451, 457, thus: "At

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[27] At p. 687; italics supplied.

[28] At p. 1269; italics supplied.

Supreme Court E-Library

the time of the rendition of 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. *Thereafter* 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."

The only difference between the foregoing cases and the present is that here, the administrative decisions came *before* the trial court rendered judgment. Which closes the possessory actions at bar in their entirety.

For the reasons given, the decision appealed from is hereby affirmed, with costs against plaintiffs-appellants.

SO ORDERED.

Reyes, J.B.L. (Acting C.J.), Dizon, Makalintal, Zaldivar, Fernando and *Capistrano, JJ.*, concur.

Teehankee and *Barredo, JJ.*, took no part.

Concepcion, C.J. and *Ruiz Castro, J.*, are on official leave.

[G.R. No. L-25018. May 26, 1969]

ARSENIO PASCUAL, JR., petitioner-appellee, *vs.* BOARD OF MEDICAL EXAMINERS, respondent-appellant,

SALVADOR GATBONTON and ENRIQUETA GATBONTON, intervenors-appellants.