

FIRST DIVISION

[G.R. No. 169161, August 17, 2007]

**HEIRS OF MIGUEL MADIO, PETITIONERS, VS. HENRY C. LEUNG,
RESPONDENT.**

D E C I S I O N

GARCIA, J.:

Via this petition for review on certiorari, petitioners seek to set aside the decision^[1] dated February 28, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 62216, entitled "**Henry C. Leung v. Miguel Madio**," as reiterated in its resolution^[2] of August 4, 2005, denying the petitioners' motion for reconsideration. The assailed decision annuls the earlier resolutions dated March 12, 1998 and November 16, 2000 of the Office of the President (O.P.) in O.P. Case No. 97-J-8167.

The facts:

On September 9, 1960, the Director of Lands issued in favor of herein respondent Henry C. Leung (Leung) an Order of Award over Lot No. 8, P. Burgos Subdivision, Residence Section "H," Baguio Townsite, Baguio City (Lot 8, hereafter). Lot 8, with an area of 557 square meters, was then the subject of Townsite Sales Application No. V-677 (E-V-673) of one Jose R. Villanueva. The lot was awarded to Leung as the winning bidder in an auction sale thereof pursuant to Commonwealth Act No. 141, as amended.

On July 29, 1964, Miguel Madio (Madio), Teofilo Quiambao, Emilio Perposi and William Capiao, hereafter collectively referred to as "protestants," through counsel, filed a protest for the cancellation of the Order of Award in question on the following grounds:

1. They are the claimants of Lot 8, having been in actual, continuous, open and adverse occupation of the same since 1947;
2. Leung failed to comply with specific requirements under the award; i.e., he did not introduce any improvement on the lot since the award was made to him on September 9, 1960;
3. They were never notified previously that Lot 8 was the subject of public bidding and that the same was awarded to Leung;
4. They have already built their houses on Lot 8 and made improvements thereon; and
5. Under Republic Act No. 730 (RA 730), they are entitled to acquire the property.

Acting on the protest, the Bureau of Lands initiated an investigation thereof, and, upon ocular inspection of Lot 8 in 1967,^[3] found several improvements thereon which the protestants introduced, among which was a one-storey house which Madio claimed to have constructed in 1960.

Based on the assailed decision of the appellate court, hereunder is the chronology of events that transpired in the Bureau of Lands in connection with the investigation of the aforementioned protest:

The initial hearing was scheduled xxx on March 24, 1965 but was reset xxx upon request of *[Leung's]* counsel, Atty. Leon P. Dacanay (or "Atty. Dacanay").

On April 20, 1965, only Miguel Madio xxx and his counsel, Atty. Hector V. Donato (or "Atty. Donato"), appeared for the protestants. Atty. Dacanay moved for dismissal of the protest for non-appearance of the other protestants, while Atty. Donato asked for postponement. The Land Investigator granted the motion for postponement.

The next hearing was set on May 19, 1965, at which Atty. Edilberto Tenefrancia, counsel for Teofilo Quiambao xxx, Emilio Perposi xxx and William Capias xxx, entered his special appearance for Atty. Donato and asked for postponement, to which Atty. Dacanay interposed no objection. Accordingly, the hearing was reset xxx with the warning that no further request for postponement would be entertained.

On June 15, 1965, only Atty. Dacanay appeared for hearing. As there was no appearance for the protestants, Atty. Dacanay moved for the dismissal of the protest for failure to prosecute the same. **Accordingly, the Land Investigator cancelled the other scheduled hearing and recommended the dismissal of the protest.**

On June 16, 1965, the protestants filed a motion to lift the order of dismissal. *[Leung]* opposed the motion.

On April 11, 1967, *[Leung]* filed a manifestation before the District Land Officer of Baguio City requesting for favorable action on the Land Investigator's recommendation.

On April 12, 1967, the District Land Officer referred the manifestation to the Land Investigator for investigation, report, comment and recommendation.

On April 26, 1967, the Land Investigator filed his report with the finding that protestants had improvements on Lot No. 8.

On May 3, 1967, the District Land Officer forwarded the case to the Regional Land Officer of the Bureau of Lands at Dagupan City for decision.

On **July 13, 1967**, Bernardo C. Albano, Regional Director, Regional Land Officer No. 1, Bureau of Lands, Dagupan City, issued an order

dispositively reading thus:

"WHEREFORE, it is ordered, as hereby it is ordered, that the protest and claim of the claimants-protestants be dropped and that they vacate the premises within sixty (60) days from the date of their receipt of copy hereof; and that the District Land Officer concerned conduct an investigation on the alleged non-compliance by the applicant with the conditions of the award, and, thereafter, submit report thereon."

In compliance with the order dated July 13, 1967, Land Investigator Trisoguno S. Bartolo, Jr. submitted a report xxx with the following findings: (i) Lot No. 8 is more suitable for residential purposes and is not needed ... for future public improvements; (ii) during the ocular inspection of Lot No. 8, it was found that [Madio] constructed a house thereon sometime in 1947, ...; and (iii) [Leung] has not made improvements on Lot No. 8 because it is being occupied by the protestants.

On January 29, 1973, [Madio] filed a petition with the Bureau of Lands opposing the award of Lot No. 8 to [Leung] and praying that he be allowed to apply therefor under Rep. Act No. 730 as he has been in continuous possession thereof since 1947.

On October 3, 1974, the Director of Lands, xxx informed [Madio] that his petition could not be given due course because the controversy over the award of Lot No. 8 to [Leung] had already been resolved in the order dated July 13, 1967 of the Regional Director in Dagupan City.

In a letter dated November 24, 1974, [Madio] again questioned the award to [Leung] ... On July 29, 1977, the Chief, Legal Division, Bureau of Lands wrote to [Madio] reiterating that the issues being raised against [Leung] were already resolved in the order dated July 13, 1967 and letter dated October 3, 1974.

On September 1, 1977, the Director of Lands directed the execution of the order dated July 13, 1967.

On February 21, 1980, [Madio] filed another petition, this time with the Office of the Secretary, Department of Environment and Natural Resources ("DENR"), and for reopening of the case, alleging the he has preferential right to Lot No. 8 under Rep. Act No. 730 because of his more than ten years of possession thereof; that the summary dismissal of his protest against the **award to [Leung] was not based on evidence but on mere** technicality; that the order of award in favor of [Leung] should be canceled for non-compliance with the conditions of the award; xxx

On November 7, 1983, [Leung] filed an answer averring that the order dated July 13, 1967 of the Regional Land Director has long become final and executory; that the petition is barred by laches and estoppel; and that [Madio] is not qualified to acquire Lot No. 8 under Rep. Act No. 730.