

FIRST DIVISION

[G.R. NO. 143307, April 26, 2006]

LU DO AND LU YM CORPORATION, COMPLAINANT, VS. AZNAR BROTHERS REALTY CO., RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

Assailed in this petition for review on certiorari is the May 24, 2000 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 43642, which dismissed the petition filed by herein petitioner Lu Do and Lu Ym Corporation and sustained the January 9, 1997 Resolution^[2] of the Office of the President (OP) dismissing petitioner's appeal from the November 22, 1995 Order^[3] of the Department of Environment and Natural Resources (DENR).

The issue to be resolved in this case is whether there exist supervening circumstances that would justify suspension of the enforcement of, or the quashal of the *alias* writ of execution issued to implement the September 18, 1986 Decision^[4] of the then Minister of Natural Resources in MNR Case No. 4096,^[5] which this Court sustained in a resolution dated July 20, 1994, in G.R. No. 116342 (hereafter referred to as the first *Lu Do* case).

The settled facts in the first *Lu Do* case show that an 8,485 square meter land located in Sawang, San Nicolas, Cebu City, was the subject of both an award of Foreshore Lease in favor of herein respondent Aznar Brothers Realty Company, a partnership engaged in buying and selling real properties and in livestock and agriculture business; and of the subsequent Miscellaneous Sales Application filed by petitioner, a manufacturer and exporter of coconut oil products.^[6] This controversy gave rise to an administrative case docketed before the Bureau of Lands as B.L. Conflict No. 45, D.L.O. Conflict No. 126.^[7]

Meanwhile, on July 21, 1965, petitioner took possession of the coveted land. Since then and up to the present, it introduced improvements on the land, such as, bodega for copra, cylindrical tank for coconut oil and automotive shop. Petitioner's occupation of the land was by virtue of a purported provisional permit alleged to have been issued by the Bureau of Lands. Such permit, however, was found to be inexistent in the records, hence, the improvements introduced by petitioner were held to have been made in bad faith.^[8]

On July 21, 1974, the Director of Lands rendered a decision revoking the award in favor of respondent and directing the reauction of the subject land.^[9] Respondent filed a motion for reconsideration but was denied.

Respondent appealed to the Minister of Natural Resources. On September 18, 1986,

the Minister acting through the Assistant Secretary for Legal Affairs, rendered a decision in MNR CASE No. 4096, reversing the decision of the Director of Lands; upholding the award of the land in favor of respondent; and ordering petitioner to remove the improvements on the land, otherwise, the same would be forfeited in favor of the government. The dispositive portion thereof, states:

WHEREFORE, the decision dated 21 June 1977 should be, as hereby it is, SET ASIDE, and the award of the area in question in favor of Aznar Brothers Realty Company shall continue to be given DUE COURSE. Lu Do and Lu Ym Corporation shall remove the improvements it has introduced in the area consisting of structures such as bodega, water tank, etc.; otherwise, the same shall be forfeited in favor of the government,

SO ORDERED.^[10]

Petitioner elevated the case^[11] to the Court of Appeals which directly addressed respondent's qualification as an awardee of a foreshore lease as well as the issue of who as between petitioner and respondent has a better right over the litigated land. Ruling in favor of respondent, the appellate tribunal dismissed the petition for lack of merit and for failure to state the material dates in the petition to show the timeliness of its filing.

A petition for review, docketed as G.R. No. L-115342 was filed by petitioner before this Court. On July 20, 1994, we issued a resolution dismissing the petition for: (a) failure to pay the correct amount of sheriff's fees and clerk's commission; and (b) failure to show that a reversible error was committed by the Court of Appeals. The decretal portion thereof provides:

ACCORDINGLY, the Court Resolved to DENY the petition for review on certiorari with prayer for a writ of preliminary injunction and/or temporary restraining order of the decision dated April 29, 1994 of the Court of appeals in CA G.R. Sp. No. 29944 for failure to comply with requirement no. one (1), as the payment of fees lacks P200.00 deposit for sheriff's fee and P2.00 for clerk's commission or a total of P202.00.

Besides, even if the petition complied with the aforesaid requirement, it would still be denied, as petitioners failed to show that a reversible error was committed by the appellate court.^[12]

Said decision became final and executory on October 10, 1994.^[13]

On February 13, 1995, petitioner filed with the Lands Management Bureau, the instant Motion to Suspend Enforcement of Decision, To Rebid Land in Dispute and/or To Quash Order of Execution.^[14] It contended that the improvements it introduced in the land since 1965, in the form of automotive shop, bodega for copra, cylindrical tank for coconut oil, increased to not less than P9,335,400.00, and it would be unfair for the government to forfeit said improvements in its favor. Petitioner further argued that the land in question should be rebid in view of dissolution of respondent partnership by reason of the death of two of its partners; and because the questioned land is no longer a proper subject of a foreshore application, it, having ceased to be a foreshore land and having been transformed into an area suitable for industrial/commercial purposes.

The Director of the Lands Management Bureau referred^[15] petitioner's Motion to Suspend Enforcement of Decision to the Secretary of the DENR which on November 22, 1995, held that said motion is a mere dilatory ploy and an attempt to relitigate settled issues. The dispositive portion thereof, reads:

WHEREFORE, in view of the foregoing considerations, the instant Motion is hereby DENIED. Let the entire records of the case be forwarded to the Regional Executive Director, DENR Region VII, for immediate execution of the 18 September 1986 Decision of this Office as affirmed by the Decision of the Court of Appeals dated 29 April 1994 and by the Resolution of the Supreme Court dated 20 July 1994.

SO ORDERED.^[16]

A motion for reconsideration of the foregoing order was denied on February 27, 1996.^[17]

On appeal, the Office of the President dismissed petitioner's recourse for lack of merit.^[18] Its motion for reconsideration suffered the same fate.^[19]

Unfazed, petitioner sought relief with the Court of Appeals. In addition to its arguments advanced in the Motion to Suspend Enforcement of Decision, petitioner averred that the award in favor of respondent should be revoked because it failed to commence introduction of improvements within six months from the date of the award, a requirement under Section 64 (d) of Commonwealth Act No. 141 or the Public Land Act. It also argued that the June 21, 1974 Decision of the Director of Lands which was favorable to it and which revoked the award of the lease to respondent had already become final and executory because the former counsel of respondent failed to file an appeal memorandum within the reglementary period; hence, the Minister of Natural Resources can no longer reverse the same in its decision dated September 18, 1986.

On May 24, 2000, the Court of Appeals dismissed the petition for lack of merit. It held that the invalid service of the order to file memorandum on respondent's former counsel prevented the June 21, 1974 decision of the Director of Lands from becoming final and executory. The reversal of said decision by the Minister of Natural Resources is therefore proper. The appellate court further ruled that the death of some of the partners of respondent did not dissolve the partnership because the award was transmitted to the deceased partners' heirs; and that the conversion of the land into one suited for commercial purposes will not frustrate the award in favor of respondent because the same land was a foreshore land at the time it was awarded to the latter. The Court of Appeals also held that the failure of respondent to introduce improvements in the land will not warrant the revocation of the award because it was in fact petitioner who brought possessory instability over the land by questioning every facet of the award to respondent.

Hence, this petition raising the following arguments:

- A. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED THE FACT THAT THE DECISION OF THE

DIRECTOR OF LANDS DATED JUNE 21, 1974, WHICH WAS FAVORABLE TO PETITIONER AND WHICH REVOKED THE AWARD IN FAVOR OF RESPONDENT AZNAR BROTHERS REALTY COMPANY OF THE LAND IN DISPUTE, HAD ALREADY BECOME FINAL AND EXECUTORY.

- B. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT FAILED TO APPRECIATE THAT THE DECISION OF THE DIRECTOR OF LANDS DATED JUNE 21, 1974 IS CORRECT.
- C. IN ANY CASE, THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN RULING THAT THE DECISION DATED SEPTEMBER 18, 1986 OF THE MINISTER OF NATURAL RESOURCES HAS BECOME IRREVOCABLE AND IN THEREBY DISREGARDING AND IGNORING FACTS AND CIRCUMSTANCES WHICH SUPERVENED AFTER THE AWARD IN FAVOR OF RESPONDENT AND WHICH HAVE AN EFFECT ON SAID AWARD.
- D. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED AND IGNORED THE FACT THAT THE SUBJECT LAND HAD ALREADY BEEN CONVERTED INTO LAND SUITED MAINLY FOR COMMERCIAL AND INDUSTRIAL PURPOSES AND MAY NO LONGER BE CLASSIFIED AS FORESHORE LAND.
- E. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT THE FAILURE OF RESPONDENT TO INTRODUCE IMPROVEMENTS ON THE SUBJECT PROPERTY IS FATAL TO ITS APPLICATION.
- F. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT THE DEATH OF TWO OF THE PARTNERS OF RESPONDENT AZNAR BROTHERS REALTY CO. RENDERED IMPOSSIBLE THE GIVING OF DUE COURSE TO THE FORESHORE LEASE AWARD IN FAVOR OF RESPONDENT, AND THAT IN ANY CASE, RESPONDENT WAS NOT QUALIFIED TO BE AN AWARDEE OF PUBLIC LAND.
- G. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RESOLVING THE OTHER ISSUES, GROUNDS, ARGUMENTS RAISED BY PETITIONER IN ITS PETITION FOR REVIEW, AND IN RELYING INSTEAD ON THE DECISION OF THE MINISTER OF NATURAL RESOURCES DATED SEPTEMBER 18, 1986, ON THE DECISION OF THE COURT IN CA-G.R. SP NO. 29944, AND ON THE RESOLUTION OF THE EXECUTIVE SECRETARY DATED JANUARY 9, 1997.

H. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RESOLVING PETITIONER'S "MOTION TO SUSPEND ENFORCEMENT OF DECISION, TO REBID LAND IN DISPUTE, AND/OR TO QUASH ORDER OF EXECUTION (IF ANY)" DATED FEBRUARY 10, 1995.

I. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DISREGARDED AND IGNORED THE VAST, SUBSTANTIAL AND VALUABLE IMPROVEMENTS INTRODUCED BY PETITIONER ON THE LAND IN DISPUTE.

J. THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT RULING THAT IMPLEMENTATION OF THE DECISION OF SEPTEMBER 18, 1986 OF THE MINISTER OF NATURAL RESOURCES WILL BE MOST UNFAIR AND INEQUITABLE TO PETITIONER.^[20]

The petition is devoid of merit.

At the outset, it should be stressed that the arguments raised by petitioner cannot wheedle this Court to re-examine factual matters that had already become final and executory more than a decade ago. Under the doctrine of conclusiveness of judgment which is also known as "preclusion of issues" or "collateral estoppel," issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.^[21] Once a judgment attains finality it becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.^[22] Hence, no amount of legal maneuvers could reinstate the Director of Lands' July 21, 1974 Decision which is favorable to petitioner nor set aside the Minister of Natural Resources' September 18, 1986 Decision which upheld the respondent's right and qualifications to lease the contested land. In a resolution dated July 20, 1994, we categorically held that the Court of Appeals committed no reversible error in dismissing the recourse filed by petitioner questioning the September 18, 1986 Decision of the Minister of Natural Resources. This resolution of the Court is an adjudication both on the technical issues and on the substantial issues raised, particularly on the qualification of respondent and on the validity of the award in its favor.^[23] Thus, only the supervening events that would allegedly justify the suspension of the execution of the September 18, 1986 Decision of the Minister of Natural Resources will be addressed here.

Petitioner claims that the following material changes in the circumstances since the time the award was given to respondent, justify the suspension of the execution of the decision, to wit: (1) the death of two of respondent's partners; (2) the substantial improvements introduced by petitioner on the land; (3) the failure of respondent to commence introduction of improvements within six months from the date of the award; and (4) the conversion of the subject property from foreshore land to commercial/industrial land.