



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**HEIRS OF HENRY LEUNG,**  
 represented by his widow,  
**MARILYN LEUNG,**  
 Petitioners,

**G.R. No. 224991**

Present:

GESMUNDO, *C.J.*, Chairperson  
 CAGUIOA,  
 CARANDANG,  
 GAERLAN, and  
 ROSARIO,\* *JJ.*

- versus -

**HEIRS OF MIGUEL MADIO,**  
 represented by **EDDIE MADIO,**  
 Respondents.

Promulgated:

**JUN 23 2021**

x ----- x

**DECISION**

**CAGUIOA, J.:**

This is a Petition for Review<sup>1</sup> (Petition) dated July 28, 2016 filed by the Heirs of Henry C. Leung, represented by his widow, Marilyn Leung (Heirs of Leung) against the Heirs of Miguel Madio represented by Eddie Madio (Heirs of Madio), which prays for the following reliefs:

WHEREFORE, premises considered, it is most respectfully prayed that the decisions of the [Court of] Appeals in C.A. G.R. SP NO. 122679, promulgated on May 28, 2015 and May 30, 2016 respectively be declared to have been issued with grave abuse of discretion thus be reversed and annulled such that:

1. The award to petitioner of Lot No. 8, P. Burgos Subdivision, Residence Section "H"[,] Baguio Town Site, containing an area of 557 square meters on September 9, 1960, be reinstated, it having been sold to petitioner in compliance with Section 79 of the Public Land Act particularly the requirement of due notice therein and that an order be issued directing the heirs of Miguel Madio and those claiming title under him to vacate Lot [N]o. 8 and surrender possession thereof to petitioner, heirs of Henry Leung;

\* Additional Member per Raffle dated June 9, 2021, vice Associate Justice Rodil V. Zalameda.  
<sup>1</sup> *Rollo*, pp. 11-28.

2. The order of the DENR Secretary on June 16, 1992 authorizing the sale of Lot [N]o. 8, P. Burgos Subdivision, Residence Section "H["]], Baguio Townsite[,] under the provisions of Republic Act No. 730 be nullified being inapplicable to lots in Town Site Reservations.
3. The resolution of the threshold issues in favor of petitioner as described in the preceding paragraphs having established the legitimacy of the award of the sale of subject lot to petitioner and the illegitimacy of the order of the DENR as sustained by the OP and the Court of Appeals cancelling the award of subject lot to petitioner as well authorizing the sale of the lot to respondent under R.A. 730, the proceedings arising from the reopening of the protest of Miguel Madio before the DENR which resulted to said unlawful orders be nullified and rendered moot and academic.

Other remedies just and equitable under the premises are likewise prayed for.<sup>2</sup>

### *Factual Antecedents*

The instant controversy traces its roots back to an Order of Award dated September 9, 1960 (Award), issued by the Director of Lands in favor of Henry C. Leung (Leung) over a 557-square-meter property, located at Lot No. 8, P. Burgos Subdivision, Residence Section "H," Baguio Townsite, Baguio City (subject property). The Award was issued in favor of Leung who was the winning bidder in an auction sale pursuant to Commonwealth Act No. (C.A.) 141,<sup>3</sup> otherwise known as the "Public Land Act," as amended.<sup>4</sup>

Nearly four years later, on July 29, 1964, Miguel Madio (Madio) Teofilo Quiambao, Emilio Perposi and William Capias (collectively, protestants) sought the cancellation of the Award before the Bureau of Lands, on the following grounds: (i) they are the claimants of the subject property, having been in actual, continuous, open and adverse possession of the same since 1947, and that they have already built their houses thereon; (ii) Leung failed to comply with the specific requirements under the award, *i.e.*, non-introduction of any improvement on the subject property since the award of the same to him; (iii) they were not notified that the subject property was publicly bid out and later awarded to Leung; and (iv) they were the ones entitled to acquire the property<sup>5</sup> by virtue of Republic Act No. (R.A.) 730.<sup>6</sup>

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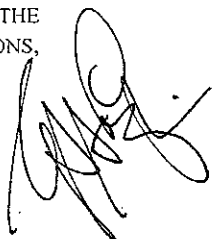
<sup>2</sup> Id. at 27-28.

<sup>3</sup> AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN, November 7, 1936.

<sup>4</sup> *Rollo*, pp. 193-194.

<sup>5</sup> Id. at 194.

<sup>6</sup> AN ACT TO PERMIT THE SALE WITHOUT PUBLIC AUCTION OF PUBLIC LANDS OF THE REPUBLIC OF THE PHILIPPINES FOR RESIDENTIAL PURPOSES TO QUALIFIED APPLICANTS UNDER CERTAIN CONDITIONS, June 18, 1952.



The Bureau of Lands investigated the merits of the protestants' claims and in the course thereof, found that the subject property did have several improvements thereon that were introduced by the protestants, including a one-storey house owned by Madio. However, on the first scheduled hearing before the Bureau of Lands, the same had to be postponed at the instance of Leung's counsel, Atty. Leon P. Dacanay. The subsequent schedules were also similarly postponed on account of the absence of one or two of the other protestants. On the fourth rescheduled hearing date, on June 15, 1965, and with the absence of some of the protestants, Leung moved for the dismissal of the protest for failure of the protestants to prosecute the same,<sup>7</sup> in response to which the Land Investigator cancelled the subsequent hearings and recommended the dismissal of the protest. Leung thereafter filed a manifestation before the District Land Officer of Baguio City (DLO-Baguio) and requested that the Land Investigator's recommendation be acted upon favorably for him.

The Land Investigator later submitted a report which informed, among others, that improvements on the subject property were found to have been introduced thereon by the protestants. The DLO-Baguio then forwarded the case to the Regional Land Office of Dagupan City (RLO-Dagupan) for decision.

At the heart of this longstanding dispute was the Order dated July 13, 1967 (July 13, 1967 Order) by RLO-Dagupan Regional Director Bernardo C. Albano,<sup>8</sup> which dispositively reads:

"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."<sup>9</sup>

In compliance with the July 13, 1967 Order, Land Investigator Trisoguno S. Bartolo, Jr. (Land Investigator Bartolo) submitted a report with the following findings: (i) the subject property was more suitable for residential purposes and was not needed for future public improvements; (ii) Madio constructed a house thereon sometime in 1947; and (iii) Leung has not made improvements thereon.<sup>10</sup>

Madio thereafter filed two petitions to seek a reversal of the July 13, 1967 Order, but failed on both attempts. First, on January 29, 1973, or almost six years since the July 13, 1967 Order, Madio filed a petition with the Bureau of Lands which opposed the Award to Leung, and prayed that he be allowed to apply for the acquisition of the subject property pursuant to R.A. 730, on the ground of his continued possession thereof since 1947. This

<sup>7</sup> *Rollo*, pp. 194-195.

<sup>8</sup> *Id.* at 195.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 195-196.

was denied by the Bureau of Lands as the claims he raised were already resolved in the July 13, 1967 Order. Next, on November 24, 1974, Madio wrote a letter to the Chief Legal Division of the Bureau of Lands, essentially raising the same claims, which were also denied as the issues raised therein were already resolved.<sup>11</sup>

The tides did not change in favor of Madio until February 21, 1980, or nearly 13 years since the assailed July 13, 1967 Order, when he filed another petition, this time with the Office of the Secretary of the Department of Environment and Natural Resources (DENR Secretary) for a reopening of the case on the ground of his preferential right to acquire the subject property. In 1992, the DENR Secretary rendered its Decision<sup>12</sup> dated June 16, 1992 (DENR 1992 Decision) for Madio, thus:

IN LIGHT OF THE FOREGOING, the July 13, 1967 Order of the Regional Land Director at Dagupan City and the Order of Award dated September 9, 1960, are hereby SET ASIDE. Let the disputed land be sold in favor of Miguel Madio under the provisions of Republic Act No. 730.

SO ORDERED.<sup>13</sup>

The DENR 1992 Decision primarily anchored its resolution on the following findings: (i) there was no showing that Madio actually received the July 13, 1967 Order and the same therefore did not become final and executory;<sup>14</sup> (ii) Madio was denied due process when his protest was dismissed for the failure of his co-protestants to appear for the hearing before the Land Investigator;<sup>15</sup> (iii) the public auction itself was invalid for non-compliance with the publication and posting requirements under Section 24 of C.A. 141;<sup>16</sup> and that (iv) it was Madio who was entitled to acquire the subject property under R.A. 730.<sup>17</sup>

When Leung's motion for reconsideration of the DENR 1992 Decision was denied, he elevated his appeal to the Office of the President (OP), which in turn dismissed the same for Leung's failure to file an appeal memorandum, through its Resolution<sup>18</sup> dated March 12, 1998. Leung sought a reversal of said dismissal, but this too was denied.<sup>19</sup>

Undaunted, Leung brought his case to the Court of Appeals (CA) which ruled in his favor through its Decision<sup>20</sup> dated February 28, 2005:

**WHEREFORE**, premises considered, the instant petition is **GRANTED**. The assailed resolutions of the Office of the President dated

<sup>11</sup> Id. at 196.

<sup>12</sup> Id. at 161-169.

<sup>13</sup> Id. at 169.

<sup>14</sup> Id. at 166.

<sup>15</sup> Id. at 167.

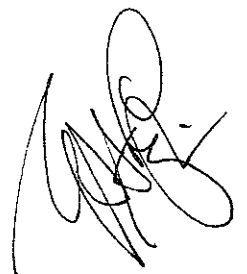
<sup>16</sup> Id. at 168.

<sup>17</sup> Id. at 162-165.

<sup>18</sup> Id. at 197.

<sup>19</sup> Id.; through the OP's Resolution dated November 16, 2000.

<sup>20</sup> Id. at 181-191.



March 12, 1998 and November 16, 2000 are **ANNULLED** and **SET ASIDE**.

Let this case be remanded to the Office of the President which is directed to give due course to [Leung's] appeal from the decision and order of the Officer-in-Charge-Secretary of the Department of Environment and Natural Resources dated June 16, 1992 and May 22, 1997, respectively, and to conduct further proceedings thereon.

SO ORDERED.<sup>21</sup>

Madio subsequently appealed the said Decision of the CA *via* a petition for review on *certiorari* before this Court, which denied the same through its Decision<sup>22</sup> dated August 17, 2007 in *Heirs of Miguel Madio v. Leung*<sup>23</sup> (*Heirs of Madio v. Leung*) the dispositive portion of which reads:

WHEREFORE, the petition is DENIED. Accordingly, the assailed decision and resolution of the CA, dated February 28, 2005, and August 4, 2005, respectively, are AFFIRMED.

No pronouncement as to costs.

SO ORDERED.<sup>24</sup>

The Court there found that the OP's dismissal of Leung's appeal had no factual basis since Leung did in fact file the appeal memorandum required. It also added that imperatives of fair play should have impelled the OP to ask for an explanation from Leung, instead of proceeding with the outright dismissal of his appeal. The Court there also noted that Leung's case appeared to be *prima facie* meritorious, but nevertheless held that it was not in any way resolving the merits of Leung's claims.<sup>25</sup>

### ***OP Decision***

On remand and through its Decision<sup>26</sup> dated March 1, 2011 (OP Decision) in O.P. Case No. 97-J-8167, the OP found Leung's appeal to be lacking in merit.<sup>27</sup> It first found that the DENR 1992 Decision correctly ruled that the auction sale of the subject property violated Section 24 of C.A. 141 and was therefore void, for its failure to comply with the statutorily required notice. It found that contrary to the requisite publication of the notice of sale in the Official Gazette for six consecutive weeks, the notice of the said auction sale was only published twice.<sup>28</sup> The OP Decision also held that nothing in the records showed that Madio ever received a copy of the

<sup>21</sup> Id. at 190-191. Penned by Associate Justice Edgardo P. Cruz and concurred in by Presiding Justice Romeo A. Brawner and Associate Justice Jose C. Mendoza.

<sup>22</sup> Id. at 193-201. Penned by Associate Justice Cancio C. Garcia and concurred in by Chief Justice Reynato S. Puno and Associate Justices Angelina Sandoval-Gutierrez and Adolfo S. Azcuna (with then Associate Justice Renato C. Corona taking no part).

<sup>23</sup> G.R. No. 169161, August 17, 2007, 530 SCRA 639.

<sup>24</sup> *Rollo*, p. 200.

<sup>25</sup> Id. at 199-200.

<sup>26</sup> Id. at 90-95.

<sup>27</sup> Id. at 94.

<sup>28</sup> Id.

July 13, 1967 Order and that the records instead showed that a copy of the same intended for Madio was returned unserved.<sup>29</sup>

In addition, the OP Decision affirmed the DENR 1992 Decision's finding that the July 13, 1967 Order partook of the nature of a summary judgment since the investigation failed to allow Madio to present any evidence on his claim, and thus supported a finding of a denial of due process for him.<sup>30</sup> It also agreed with the DENR 1992 Decision's holding that Madio was in actual occupation and possession of the subject property prior to the posting of the notice of its auction sale.<sup>31</sup> It noted that the reports of the Land Investigator dated February 3, 1970 and July 15, 1984 consistently observed that Madio constructed a house on the subject property in 1947, or 10 years prior to the auction sale on May 31, 1957. Finally, the OP Decision upheld the DENR 1992 Decision's cancellation of the award of the subject property in favor of Leung, and its concomitant pronouncement that Madio was entitled to acquire the same under R.A. 730. It affirmed that Madio's qualification was sufficiently established by the fact that he is the actual occupant of the subject property, he has constructed his house thereon, and he is not the owner of any other property in Baguio City.<sup>32</sup>

Leung thereafter moved for a reconsideration of the OP Decision but the same was denied through the OP's Resolution<sup>33</sup> dated December 2, 2011 (OP Resolution).

#### *CA Decision*

Leung assailed the OP Decision and Resolution *via* a petition for review under Rule 43. The CA in its Decision<sup>34</sup> dated May 28, 2015 (CA Decision) denied the same, affirmed the OP and held in part, *viz.*:

Because no valid service of the July 13, 1967 Order of the Regional Land Director of Dagupan City was made upon respondent, the period to appeal the same did not prescribe and the said issuance, therefore, had never attained finality. Thus, the DENR Secretary was not divested of its power to review, reverse and modify the same.

All told, the facts obtaining in the instant case clearly shows [(sic)] that respondent was, indeed, the party who was able to prove compliance with the requirements of R.A. No. 730. Factual considerations relating to lands of the public domain properly rest within the administrative competence of the Director of Land and the DENR. Finally, findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because of their jurisdiction, are confined to specific matters and are accorded respect, if not finality, by the courts. We find no cogent reason to depart from this rule.

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<sup>29</sup> Id.

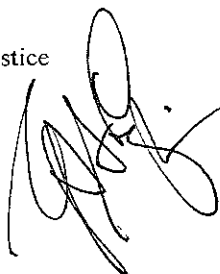
<sup>30</sup> Id. at 95.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id. at 97-98.

<sup>34</sup> Id. at 34-46. Penned by Associate Justice Sesinando E. Villon and concurred in by Associate Justice Rodil V. Zalameda (now a member of this Court) and Associate Justice Pedro B. Corales.



**WHEREFORE**, in light of the foregoing, the instant petition is **DISMISSED** for lack of merit. Accordingly, the Decision dated March 1, 2011 and Resolution dated December 2, 2011 of the Office of the President in O.P. Case No. 97-J8167 are hereby **AFFIRMED**.

**SO ORDERED.**<sup>35</sup>

Leung moved for a reconsideration of the CA Decision, but the same was denied through the CA's Resolution<sup>36</sup> dated May 30, 2016.

In the instant Petition, the Heirs of Leung assail the CA's affirmation of the OP Decision's findings, and anchor their challenge on the following averments: (i) the public auction sale of the subject property complied with due notice under Section 79 of C.A. 141 and is therefore valid;<sup>37</sup> and (ii) R.A. 730 is inapplicable since it does not cover lots within town site reservations.<sup>38</sup>

In their Comment<sup>39</sup> dated April 11, 2016, the Heirs of Madio counter that the issues raised in the Petition are a mere rehash of the arguments already raised before and resolved by the DENR 1992 Decision, the OP Decision and the CA Decision.<sup>40</sup> They add that the CA committed no error in holding that Madio had a preferential right to acquire the subject property since he met the qualifications under Section 1 of R.A. 730, and Leung, for his part, failed to overcome the burden of proof to show that he was correctly entitled.<sup>41</sup> They also add that consistent with the rules on service of judgments, Madio was not served a copy of the July 13, 1967 Order which kept the latter from becoming final and executory.<sup>42</sup>

### *Issue*

The sole issue for the Court's resolution is whether the CA erred in affirming the OP Decision which, among others, (i) found the auction sale over the subject property void; (ii) deemed the July 13, 1967 Order of the Regional Director of Lands not yet final and executory; and (iii) directed a cancellation of the award in favor of Leung and concomitantly held Madio rightly entitled to acquire the subject property under R.A. 730.

### *Court's Ruling*

The Petition is unmeritorious.

Preliminarily, it does not escape the Court that the instant controversy has already run the course of over five decades, outlived both the original

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<sup>35</sup> Id. at 45.

<sup>36</sup> Id. at 48.

<sup>37</sup> Id. at 20-25.

<sup>38</sup> Id. at 25-26.

<sup>39</sup> Id. at 124-126.

<sup>40</sup> Id. at 124.

<sup>41</sup> Id. at 125.

<sup>42</sup> Id. at 125-126.



parties thereto, and yet lamentably remains unresolved. Nevertheless, the Court here finds that the central question posed by the Petition has already been correctly and consistently ruled upon by the DENR, the OP and the CA. After a careful study of the allegations and the records of this case, the Court is persuaded to respect and uphold said uniform resolutions, as no sufficient ground is appreciable to disturb them.

*First*, the Court finds that the CA correctly upheld the earlier findings of the DENR 1992 Decision and the OP Decision that with respect to the sale of the subject property, what applies is Section 24, and not Section 79, of C.A. 141.

Section 24, Chapter V on Sale provides:

SECTION 24. Lands sold under the provisions of this chapter must be appraised in accordance with section one hundred and sixteen of this Act. **The Director of Lands shall announce the sale thereof by publishing the proper notice once a week for six consecutive weeks in the Official Gazette, and in two newspapers one published in Manila and the other published in the municipality or in the province where the lands are located, or in a neighboring province, and the same notice shall be posted on the bulletin board of the Bureau of Lands in Manila, and in the most conspicuous place in the provincial building and the municipal building of the province and municipality, respectively, where the land is located, and, if practicable, on the land itself; but if the value of the land does not exceed two hundred and forty pesos, the publication in the *Official Gazette* and newspapers may be omitted. The notices shall be published one in English and the other in Spanish or in the local dialect, and shall fix a date not earlier than sixty days after the date of the notice upon which the land will be awarded to the highest bidder, or public bids will be called for, or other action will be taken as provided in this chapter. (Emphasis supplied)**

Measured against the yardstick of the foregoing notice requirement, the Court finds that the notice of the public auction sale of the subject property in the instant case is wanting. As carefully noted by the DENR 1992 Decision, there was no showing that the notice of sale was posted in conspicuous places in the provincial building or in the municipal building of the province or municipality where the subject property is located.<sup>43</sup> Furthermore, as observed by the OP Decision, contrary to the requisite publication of the notice of sale in the Official Gazette for six consecutive weeks, the notice of the said auction sale was only published twice. These irregularities in the publication of notice cannot, by any stretch, be deemed compliant with the requirement of breadth and frequency of posting under Section 24. As the DENR 1992 Decision notes:

x x x If such requirements have been fully complied with, appellant could have participated in the bidding or, had he been duly notified, he could have taken the proper legal action to safeguard his occupation and possession of the land in dispute.<sup>44</sup>

<sup>43</sup> Id. at 168.

<sup>44</sup> Id.



As a consequence, the failure to publish the notice of the auction sale as statutorily required constitutes a jurisdictional defect which invalidates the auction sale of the subject property, as well as the Award in favor of Leung.<sup>45</sup>

In their attempt to counter this claim, the Heirs of Leung erroneously harp on the requirement of notice prescribed under Section 79, Chapter IX, Title V on Town Site Reservations of C.A. 141 as the applicable type of notice, with said Section providing:

**SECTION 79. All lots, except those claimed by or belonging to private parties and those reserved for parks, buildings, and other public uses, shall be sold, after due notice, at public auction to the highest bidder, after the approval and recording of the plot of subdivision as above provided, but no bid shall be accepted that does not equal at least two-thirds of the appraised value, nor shall bids be accepted from persons, corporations, associations, or partnerships not authorized to purchase public lands for commercial, residential or industrial purposes under the provisions of this Act. The provisions of sections twenty-six and sixty-five of this Act shall be observed in so far as they are applicable. Lots for which satisfactory bids have not been received shall be again offered for sale, under the same conditions as the first time, and if they then remain unsold, the Director of Lands shall be authorized to sell them at private sale for not less than two-thirds of their appraised value. (Emphasis supplied)**

Plainly, however, this argument suffers from an obvious flaw in that Section 79 disclaims at the onset that it does not cover lots which are “claimed by or belonging to private parties.” It therefore clearly excludes in its coverage the subject property, which is claimed and possessed by Madio.

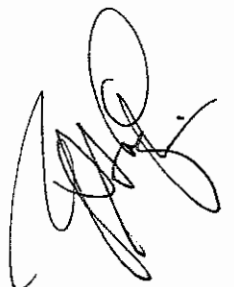
*Second*, the Court also agrees with the CA’s finding that the July 13, 1967 Order did not become final and executory, on the ground of non-service to Madio. Sections 9 and 10, Rule 13 of the Rules of Court on service of judgments, orders, and decisions find particular relevance, to wit:

**SEC. 9. Service of Judgments, Final Orders or Resolutions.** — Judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party.

**SEC. 10. Completeness of Service.** — Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever date is earlier.

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<sup>45</sup> See *Spouses Laher v. Spouses Lopez*, G.R. No. 233757, April 18, 2018 (Unsigned Resolution).



As consistently found by the DENR 1992 Decision and the OP Decision, the records provide no proof that proper service of the July 13, 1967 Order was ever made to Madio. What is more, the contrary was shown, as succinctly observed in the DENR 1992 Decision:

x x x The records show that **a copy of the said Order was sent to Miguel Madio on November 8, 1967 by ordinary mail but was returned "unclaimed"**. In a letter, dated November 23, 1967, Silverio R. Galiciano, Supervising Surveyor IV of the Regional Land Office at Dagupan City, requested the District Land Officer [in] Baguio City for a better address and correct number of appellant's house or residence on the envelop thereof and suggesting that a copy be delivered to appellant at his last known address. **The records [are] bereft of any showing that the request was complied with. Likewise, there [was] no showing that Miguel Madio has actually received a copy of the Order, dated July 13, 1967.**

There being no valid service of the Order[ ] dated July 13, 1967, the Order of July 13, 1967 has not become final and executory and, therefore, the period to appeal and/or to file a motion for reconsideration did not commence to run. Accordingly, the Order of Execution dated September 1, 1967, also is bereft of legal and factual basis.<sup>46</sup>

As a rule, judgments are sufficiently served when they are delivered personally, or through registered mail to the counsel of record, or by leaving them in his office with his clerk or with a person having charge thereof.<sup>47</sup> After service, a judgment or order which is not appealed nor made subject of a motion for reconsideration within the prescribed 15-day period attains finality.<sup>48</sup>

As applied to the instant case, without a valid service of the July 13, 1967 Order to Madio, the same may not be considered to have become final and executory. More specifically, the period to appeal or file a motion for reconsideration could not be deemed to have commenced. Still consequently, the same was still reviewable, as it was in fact reviewed, by the DENR Secretary.

*Third*, the Court likewise affirms the earlier uniform finding that the hearing before the Regional Director of Lands was effectively a summary judgment which deprived Madio of due process. Specifically, the DENR 1992 Decision is quoted with approval in part:

Further, the July 13, 1967 Order partakes of the nature of a summary judgment dismissing the protest of the appellant for reasons indicated therein, to wit:

<sup>46</sup> Id at 166. Emphasis supplied.

<sup>47</sup> *Rubia v. Government Service Insurance System (GSIS)*, G.R. No. 151439, June 21, 2004, 432 SCRA 529, 537.

<sup>48</sup> See RULES OF COURT, Rule 36 on Judgments, Final Orders and Entry Thereof. See also *Dayrit v. Philippine Bank of Communication*, G.R. No. 140316, August 1, 2002, 386 SCRA 117; *Videogram Regulatory Board v. Court of Appeals*, G.R. No. 106564, November 28, 1996, 265 SCRA 50.

x x x It is clear however, that claimants-protendants have since lost interest in their claim and alleged better rights over the land as may be inferred from their failure to appear on the date scheduled for investigation x x x

**While the questioned order speaks of the loss of interest or failure of the claimants-protendants, it is observed that appellant himself was present during the scheduled investigations as can be gleaned from the order itself, thus;**

It appears from the records of the case that the investigation had been scheduled three times, only at the first of which — on April 20, 1965 — only the claimant Miguel Madio and his counsel appeared x x x

Appellant has reasons to question the foregoing order when he alleged in his manifestation, dated February 16, 1983, that **the investigation/hearing set on June 16, 1965 where he was to have presented evidence, was summarily cancelled by the hearing officer.**

Thus, we find that **appellant has been denied of his rights to due process. The failure of his co-claimants to appear in the investigation/hearing did not warrant the cancellation of the hearing considering that appellant was present.** What is safeguarded in the application of due process requirement is not the lack of notice but the denial of the opportunity to be heard.<sup>49</sup>

The Court finds this crucial observation correct and agrees that the July 13, 1967 Order was also invalid on this count. Clearly, the hearing before the Regional Director of Lands, which was supposed to be the venue wherein Madio, as a protestant, could submit proof of his claims in opposing the Award in favor of Leung, failed to afford Madio of such a process, since despite his presence during the hearings, the absence of his co-protendants therein became cause for the outright dismissal of the case. In other words, the hearing did not in fact occur, as Madio's right to be heard on his claim/protest was brushed aside on a mere motion of Leung.

In much the same way that the Court, in the earlier case of *Heirs of Madio v. Leung* found that fair play should have kept the OP from a swift dismissal of Leung's appeal before it, the Court here similarly finds that the July 13, 1967 Order offended the elementary notions of fair play with its flat out dismissal of Madio's protest despite his own presence at the scheduled hearings, and without otherwise affording him the genuine opportunity to be heard on his claim.

*Fourth*, with the auction sale invalid for non-compliance with the notice requirement and the July 13, 1967 Order similarly so for having effectively denied Madio of due process, the final question that remains to be resolved is whether Madio was able to establish his qualification for a preferential right to acquire the subject property under R.A. 730, so that the

<sup>49</sup> *Rollo*, pp. 166-167. Emphasis supplied.

cancellation of the award over the same to Leung becomes legally inevitable.

The Court resolves this final question in the affirmative.

Section 1 of R.A. 730, by way of exception to Sections 61 and 67 of C.A. 141, outlines the requisites to qualify for a preferential right to acquire a public land for residential purposes through private sale:

**SECTION 1.** Notwithstanding the provisions of sections sixty-one and sixty-seven of Commonwealth Act Numbered One hundred forty-one, as amended by Republic Act Numbered Two hundred ninety-three, **any Filipino citizen of legal age who is not the owner of a home lot in the municipality or city in which he resides and who has in good faith established his residence on a parcel of the public land of the Republic of the Philippines which is not needed for the public service, shall be given preference to purchase at a private sale of which reasonable notice shall be given to him not more than one thousand square meters at a price to be fixed by the Director of Lands with the approval of the Secretary of Agriculture and Natural Resources.** It shall be an essential condition of this sale that the occupants has constructed his house on the land and actually resided therein. Ten per cent of the purchase price shall be paid upon the approval of the sale and the balance may be paid in full, or in ten equal annual installments. (Emphasis supplied)

In *Reyes v. Court of Appeals*,<sup>50</sup> the Court made salient the import of the residential utility of the properties sought to be sold to private individuals, *viz.*:

In [R.A.] 730, the title uses the term for “residential purposes”. Section 1 of the statute uses the clause “established his residence on a parcel of public land”. Those terms apply to the situation of COLUMBA and GEOLINA. Even if their intention is to acquire the lots both for residence and commercial venture, the *principal* purpose should be residential. Residence is a requirement of a person with priority to the requirement for a place of business. Hence, we consider that the lots here involved are for “residential purposes” and are actually “established” residences within the meaning of [R.A.] 730 and can be sold on private sales. Of course, lots *purely* for “commercial purposes” will clearly be outside the scope of the statute.<sup>51</sup>

The records of the case at bar reveal that they support the unanimous factual conclusion of the DENR 1992 Decision and the OP Decision, as affirmed by the CA, that Madio sufficiently established his preferential right to purchase the subject property in this case.

The Court recalls with significance the various reports filed on the subject property, which all verified that Madio did in fact introduce improvements thereon, with the main one that being his very own residence.

<sup>50</sup> G.R. No. L-55463, November 25, 1983, 125 SCRA 785.

<sup>51</sup> *Id.* at 795.

For one, the April 21, 1967 Report submitted by Land Investigator Pastor Teodoro after an investigation on the subject property stated:

1. That the land subject hereof is identified as Lot No. 8, P. Burgos Subdivision, Res. Sec. "H", Baguio City. The same is duly surveyed under Tsi-677-D;

2. From an ocular inspection on the premises conducted on April 21, 1967, the following improvements are gathered:

a. **1-storey house of salvaged materials owned by Miguel Madio, and barb wire fencings along the street boundary, and allegedly constructed sometime in 1960; about 3m x 4m area (floor);**

b. Connected by the house of Madio is another room (2) affair house of galvanized 2nd hand and wood materials (3m x 4m) which is owned by Eduardo Bomouey, constructed early this year;

c. A shack of salvaged galvanized iron and wood, 2m x 3m, constructed allegedly in 1960; owned by Emilio Perposi;

d. A shack of salvaged materials, 2m x 3m, owned by William Capiáo constructed allegedly in 1960;

e. A shack of salvaged materials owned by Teofilo Quiambao, 2m x 3m, constructed allegedly in 1960.<sup>52</sup>

For another, in a Report filed by Land Investigator Bartolo on February 3, 1970, similar observations were noted:

That during the ocular investigation of the premises, **it was found that the following persons [have] constructed their houses thereon: Miguel Madio constructed in 1947, excavation and levelling; house of Emilio Perposi constructed in 1957, excavation and levelling; house of Teofilo Quiambao constructed in 1957, excavation and levelling; and house of William Kapiáo constructed in 1957, with excavation and levelling. It was likewise ascertained in the course of the ocular investigation that applicant Henry Leung has no improvements on the land whatsoever.**<sup>53</sup>

Still, through the DENR's own investigation, it concluded in its Report dated July 15, 1984, viz.:

a) **A 2-storey house owned by Miguel Madio which according to him is an improvement of the house he constructed in 1947. The ground floor is being rented out by Miguel Madio for commercial purposes and the second floor is being used for residential purposes for his family.**

b) At the back of the house of Miguel Madio are several shanties allegedly owned by the other claimants. An interview of the claimant was attempted [but] there [was] no responsible person to talk with. Miguel Madio manifested that he is the one responsible for the improvement of the land and the presence of the shanties are under his tolerance.

<sup>52</sup> *Rollo*, p. 162.

<sup>53</sup> *Id.* at 163-164. Emphasis supplied.

c) **There are no visual improvements introduced by Henry Leung on the disputed land and he was not able to comply with the Order of Award because of the presence of the claimants.**

COMMENTS:

The occupation and possession of Miguel Madio is manifested by his existing house and other improvements such as the levelling of the land from its former hilly status, which finding is a confirmation of the findings indicated in the investigation reports submitted by the Bureau of Lands[?] investigators. The land is the only one being claimed by Miguel Madio. **The claim of Miguel Madio should be considered as actual, long and continuous occupation and possession of land of the public domain [which] are among the criteria for acquiring the same under the Public Land Act, as amended.**<sup>54</sup>

The foregoing reports of factual findings more than adequately show that indeed, the core requirement of construction of a house and residence on the subject property sought to be acquired was complied with by Madio a decade before the said property was even put up for public auction. The Court therefore finds no reason to deny this demonstrated fact.

As well, *apropos* is the Court's reminder in *Silverio, Sr. v. Marcelo*<sup>55</sup> on the persuasive weight of the factual findings of administrative agencies *vis-à-vis* disputes well within their expertise and jurisdiction, to wit:

Factual considerations relating to lands of the public domain properly rest within the administrative competence of the Director of Lands and the DENR. Findings of administrative agencies, which have acquired expertise because of their jurisdiction, are confined to specific matters and are accorded respect, if not finality, by the courts. Even if they are not binding to civil courts exercising jurisdiction over ejectment cases, such factual findings deserve great consideration and are accorded much weight.<sup>56</sup>

All told, the bare facts of the instant controversy were straightforwardly distilled by the DENR through its 1992 Decision, and although it is most regrettable that it took a staggering 29 years before this case can conclusively come to a close, the Court here finds that all arguments against the DENR 1992 Decision are now definitively and finally dismissed.

**WHEREFORE**, premises considered, the Petition is hereby **DENIED**. The Decision of the Court of Appeals, in CA-G.R. SP No. 122679 dated May 28, 2015 and its Resolution dated May 30, 2016 are **AFFIRMED**.

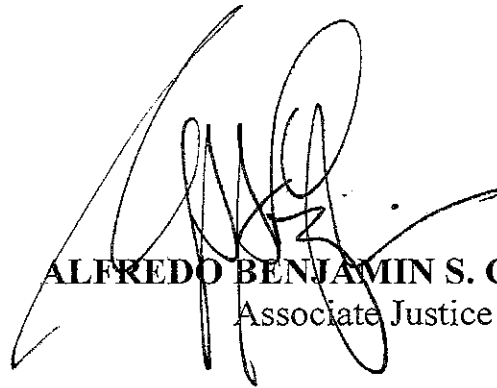
<sup>54</sup> Id. at 165. Emphasis supplied.

<sup>55</sup> G.R. Nos. 184079 & 184490, April 17, 2013, 696 SCRA 694.

<sup>56</sup> Id. at 714.

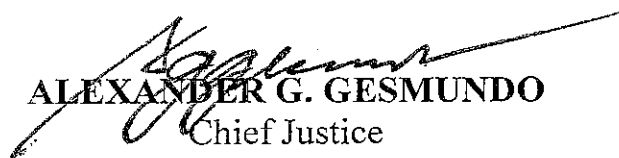


**SO ORDERED.**



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

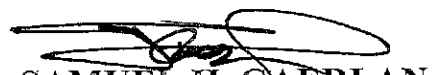
WE CONCUR:



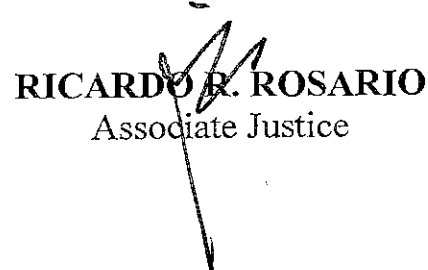
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson



**ROSMARI D. CARANDANG**  
Associate Justice



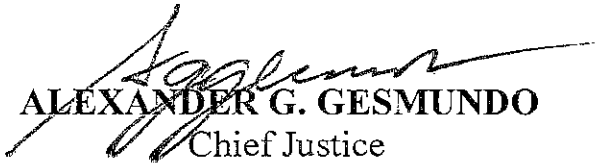
**SAMUEL H. GAERLAN**  
Associate Justice



**RICARDO R. ROSARIO**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

