

[G.R. No. 2539. April 16, 1906]

VICENTE BALPIEDAD, PLAINTIFF AND APPELLEE, VS. THE INSULAR GOVERNMENT ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

On the 23d of February, 1894, Vicente Balpiedad presented a petition to the Court of Land Registration asking that he be inscribed as the owner of a tract of land of 13,225 square meters situated in the Government reservation at Baguio, in the Province of Benguet. The land described in this petition is a part of the land described in the petition in the case of Cristobal Ramos vs. The Insular Government^[1] (4 Off. Gaz., 391). "The Solicitor-General appeared in the court below and opposed the petition on the ground that the lands described therein were public lands. Judgment was entered granting the prayer of the petitioner and ordering an inscription of the land in the name of Vicente Balpiedad. The Solicitor-General moved for a new trial, which was denied, and he has brought the case here by bill of exceptions.

The questions of law presented in this case are the same as those presented in the case of Jones vs. The Insular Government,^[2] No. 2506, just decided, with the exception that there is nothing in the case to indicate that Vicente Balpiedad is not a native of the Islands.

The only question that remains to be considered is one of fact, and that is whether the petitioner proved an adverse possession of the land for ten years. On the 26th of November, 1901, Vicente Balpiedad bought the land in question from an Igorot named Pokay, and an instrument of sale was made and executed by Pokay on that day, which was on the 11th day of January, 1902, recorded in the registry of property at San Fernando. The Igorot, Pokay, acquired the land from his deceased father, Ampagney, and the latter acquired it from the grandfather of Pokay, Batana. The land was cultivated in the time of the grandfather and the father of Pokay, and was also cultivated by himself. During the times when the land was so

occupied by these persons there was a house upon it, and it was inclosed and cultivated. The old house was destroyed, and a new house erected since the American occupation of the Islands was also destroyed by fire. There is no evidence that anyone else has ever been in possession of this land, and there is no evidence of any adverse claim to the land ever having been made by any one, except the proceedings taken in connection with the application of Ramos to buy the land, which consisted of a survey of the whole tract claimed by Ramos, in which the tract here in question is included.

Testimony was presented showing that the Igorot, Pokay, knew of the survey and of its purpose, and made no objection thereto. He denied this, and there is considerable conflict in the evidence upon the point, but, however that may be, this survey did not, in our opinion, constitute an interruption of the possession nor stop the running of the statute of limitations. Ramos never was in possession of the land. Pokay was in possession before the survey, during the survey, and after. An examination of the evidence satisfies us that an adverse possession such as is required by section 41 of the Code of Civil Procedure, made applicable to this case by Acts Nos. 648 and 627, was established.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. After the expiration of twenty days let final judgment be entered herein and ten days thereafter let the case be remanded to the court of its origin for proper procedure. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.

^[1] Not reported.

^[2] Page 122, *supra*.
