

[G.R. No. 2776. October 27, 1906]

BRUNO REMENTERIA, REPRESENTING FLORENCIO ARANA, PLAINTIFF AND APPELLEE, VS. LOPE DE LARA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

This action relates to a tract of land. The court below decided it in favor of the plaintiff, declaring that he was the owner of the land in question. The defendants excepted to this judgment, but did not make a motion for a new trial. We can not, therefore, review the evidence, and the decision of this court will be based exclusively upon the facts as found by the court below.

The land is described in the complaint as measuring 22 yards front and 60 yards deep, bounded on the front—that is to say, on the east—by the river; on the rear—that is to say, on the west—by land belonging to the Government (now belonging to the heirs of Nicolas Carranceja), on the left—that is to say, on the north—by the *camarin* of Francisco Rodriguez, and on the right—that is to say, on the south—by the *camarin* of Estanislao Moreno (now belonging to Mariano Moreno). The plaintiff alleges to have acquired the land in question by purchase from Estanislao Moreno in the year 1890, and that in July, 1903, the defendant, Lope de Lara, without his knowledge or consent, occupied part of the said land, the same being the land in controversy in this case, and built thereon a *camarin*.

The defendants contend that the land occupied by Lope de Lara belongs to the municipality of Daet, which granted him the necessary authority to build his *camarin* thereon. They allege that the land of Estanislao Moreno, under which the plaintiff claims, only measured 8 yards front by 12 yards deep, and that when it was sold to the said plaintiff there was improperly included in the sale part of the land belonging to the municipality which measured 14 yards front by 48 yards deep, this being the land upon which the *camarin* of Lope de Lara was built.

The court below in the third finding of facts found, as a matter of fact, “the defendants had occupied part of the land *between the front of the tract of land sold by Estanislao Moreno to Florencia Arana and the river * * **.” This seems to indicate, as we understand it, that the land in controversy is outside the boundaries of the land of the plaintiff and does not, therefore, constitute an integral part of the same; otherwise it” would be improper and incorrect to say that it lies between the front of the said tract and the river. If it were really so the question should be decided against rather than in favor of the plaintiff.

But the court below, in finding 4, paragraph 2, of the judgment, further found that “the defendants have not presented any title as the basis of the right of ownership of a part or all of the land which the plaintiff seeks to recover, the latter having introduced in evidence a title deed of the land described in the complaint duly recorded in the Registry of Property.” We think that this finding of the court below is in conflict with his previous finding above referred to, because the land described in the complaint apparently includes the land here in controversy. It was so admitted by the defendant municipality of Daet when it alleged in its answer that the land in controversy, of which it contends it is the owner, was improperly included in the sale made by Estanislao Moreno to the plaintiff in this case. The land described in the complaint is exactly the same land sold to the plaintiff by the said Moreno.

The findings of the court below being in conflict, and this court being precluded from reviewing the evidence for the purpose of determining the real facts established at the trial, there is nothing upon which to base a judgment either for or against the plaintiff or defendants, and it becomes necessary to have a new trial.

The judgment appealed from is accordingly set aside and it is. ordered that the case be remanded to the court below for a new trial, without special provisions as to the costs of this instance. After the expiration of twenty days from the date hereof let judgment be entered in accordance herewith and ten days thereafter the case be remanded to the court below as aforesaid. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

Carson, J., disqualified.

