

[ G.R. No. 2498. November 28, 1906 ]

**MARCELO TIGLAO, PETITIONER AND APPELLANT, VS. THE INSULAR GOVERNMENT ET AL., RESPONDENTS AND APPELLEES.**

**D E C I S I O N**

**WILLARD, J.:**

The appellant, Marcelo Tiglao, on the 5th of February, 1904, presented a petition to the Court of Land Registration, asking that he be inscribed as the owner of a tract of land containing 1,218 hectares situated in the barrio of Dolores, pueblo of Mabalacat, in the Province of Pampanga. The petition was opposed by the judge-advocate-general of the Division of the Philippines on the ground that the land described in the petition was a part of the military reservation of Stotsenberg, and it was also opposed by the Solicitor-General on the ground that the State was the owner of the land. Judgment was entered dismissing the petition and the petitioner has brought the case here by bill of exceptions.

On the 13th of July, 1873, the *principalia* of the town of Mabalacat undertook to grant to one Rafael Laeson, for the purposes of cultivation, a tract of land described as follows:

“Un terreno baldio con linderos por Norte el rfo denominado Litang y las del chino cristiano Nicolas Cu-Juco, por Sur el rfo Sapang-batu y los montes Batiauan y el montecillo denominado Tacondo; por Este el bosquecillo llamado Balanga y el montecillo de Mabatid y por Oeste el rfo denominado Labac.”

By a private document executed on the 0th of May, 188.1, Rafael Lacson conveyed the property in question to Pedro Carrillo and his wife, Edilberta Juarez. Upon the death of these grantees their interest in the land passed to Maria Paz Juarez and Rosa Juarez, and on the 6th of November, 1898, Rosa Juarez executed a deed purporting to convey to the petitioner all of the land described in the original concession made by the *principalia* of the

pueblo of Mabalacat, it being stated in this deed that its extent was 743 hectares. No mention was made in this deed of the interest of the sister of Rosa Juarez, Maria Paz Juarez.

The concession made in 1873 by the principal men of the pueblo conveyed to Rafael Lacson no interest whatever in the land. This has already been held by this court in the case of *Evangelista vs. Bascos et al.*<sup>[1]</sup> (3 Off. Gaz., 656). The case is therefore governed by the decisions in *Valenton et al. vs. Murciano*<sup>[2]</sup> (2 Off. Gaz., 434) and *Cansino et al. vs. Valdez et al.*<sup>[3]</sup> (4 Off. Gaz., 488), in which it was held that possession of land such as this from 1873 down to the present time would give the possessor no title thereto as against the State. The petitioner claims, however, to be entitled to the benefits of paragraph 6 of section 54 of Act No. 926, the Public Land Act. That section 4s 1b part as follows:

“SEC. 54. The following-described persons or their legal successors in right, occupying public lands in the Philippine Islands, or claiming to own any such lands or an interest therein, but whose titles to such lands have not been perfected, may apply to the Court of Land Registration of the Philippine Islands for confirmation of their claims and the issuance of a certificate of title therefor, to wit:

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“6. All persons who, by themselves or their predecessors in interest, have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said act of Congress of July first, nineteen hundred and two, under a *bona fide* claim of ownership except as against the Government, for a period of ten years next preceding the taking effect of this act, except when prevented by *Avar* or *force majeure*, shall be conclusively presumed to have performed all the conditions essential to a Government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter.”

The evidence in the case, however, shows that neither the petitioner nor his grantors were in the open, continuous, exclusive, and notorious possession and occupation of the land in question during the ten years immediately preceding the taking effect of Act No. 926. The evidence is practically conclusive that there was no cultivation or occupation of the land by anyone after 1885. One of the witnesses for the petitioner stated that at the time of the trial

the petitioner had as yet done nothing with the land in the way of occupying and cultivating it. He had, however, notified the adjoining proprietors that he was the owner thereof. It is very clear that section 54 above quoted requires an actual physical occupation of the land, and the acts performed by the petitioner and his immediate grantor do not prove any such possession or occupation. The judgment of the court below is affirmed, with the costs of this instance against the appellant. After the expiration of twenty days let judgment be entered in accordance herewith, and ten days thereafter the case be returned to the lower court for execution. So ordered.

*Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.*

*Johnson, J., did not sit in this case.*

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<sup>[1]</sup> 5 Phil. Rep., 255.

<sup>[2]</sup> 3 Phil. Rep., 537.

<sup>[3]</sup> 6 Phil. Rep., 320.

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