

34 Phil. 475

[ G.R. No. 10810. March 28, 1916 ]

**THE MUNICIPALITY OF AGOO, PROVINCE OF LA UNION, PETITIONER AND APPELLEE, VS. GABRIEL TAVORA, OBJECTOR AND APPELLANT.**

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

**JOHNSON, J.:**

The purpose of the present action was to correct a decree of registration of a certain parcel (lot No. 3) of land registered in the name of the municipality of Agoo, of the Province of La Union. The contention of the opponent is that certain land belonging to him had been fraudulently included in said registration in favor of the petitioner.

From the record it appears that the plaintiff, on or about the 16th of June, 1913, presented a petition in the Court of Land Registration for the registration of a certain lot or parcel of land located in the municipality of Agoo. Accompanying said petition a plan of said parcel of land (lot No. 3) was presented and marked Exhibit A.

Later, without any opposition having been presented, the Honorable James A. Ostrand, judge, on the 14th of October, 1913, entered a decree ordering the registration of said parcel of land in the name of the petitioner, and the certificate was finally issued on the 13th of December, 1913.

Later, and within a year from the order decreeing the registration of said parcel of land, the opponent Gabriel Tavora presented a petition asking for a rehearing, upon the ground that the decree of registration had been fraudulently obtained.

The facts upon which said motion was based are best expressed by the motion itself, which motion is as follows:

“Gabriel Tavora, objector in the above entitled proceedings for registration, respectfully appears by means of his attorney and sets forth:

“(1) That, by virtue of a decree of the Court of Land Registration of December 13, 1913, the applicant succeeded in registering, and did register a parcel of land belonging to him situated in the barrio of Santa Barbara of the municipality of. Agoo, La Union, and, besides, appropriated or unduly included in the registration of the said parcel, a piece of land lying toward the north of his own, of which piece of land the objector is the absolute and exclusive owner, the metes and bounds of which, as they appear in said applicant’s application, are: NE., Calle Real; SE., Calle Burgos; SW., Eduvigis Mendoza and Mariano Lloren; and NW., Gabriel Tavora. Excluding the portion appropriated, the land of the municipality has these same boundaries.

” (2) That the said decree was obtained fraudulently with respect to the small piece of land referred to in the first paragraph of this motion. This piece is bounded on the NW. by the property of Gabriel Tavora, and on the E. and S. by that of the municipality, and has an approximate area of 5 ares and 95 centares.

“(3) That the objector was duly cited and summoned on the hearing of this case.

“(4) That, for the following reasons, the objector did not file its opposition in time:

” (a) Because, about the year 1907, this land of the municipality was surveyed for the first time by a surveyor assisted by the objector, and the plan thereof was drawn in conformity with the applicant’s indications and the objector’s documents and plans; this plan is now in the office of the provincial fiscal of La Union.

“(b) Because, about the month of October, 1909, when the case was ready for hearing, it was discovered that the surveyor who prepared the plan was not licensed and appointed as such by the Government, and for this reason the land was for the second time surveyed by another surveyor, again with the assistance of the objector and of

one Cayetano Ventura who said he was authorized by the then municipal president of Agoo to point out or indicate the true boundaries of the land of the municipality.

“(c) Because this second surveyor and by the acts of the said Cayetano Ventura, intentionally and deliberately induced the objector to believe that in preparing the map or plan of the land of the municipality, they would follow the boundaries as set forth in the objector’s documents and plans, which were shown to them, and, by reason of this belief the objector did not file an adverse claim.

“(d) Because in the hearing in these proceedings, the opponent saw a plan in the office of the provincial fiscal approved by Mr. E. P. Shurman and as he believed that it was a copy of the plan presented in evidence and attached to the record in this case, he did not for this reason file the proper adverse claim.

“(5) That the entire boundary or divisionary line between the applicant’s land and that of the opponent consists of a stone wall, a part of which has been in existence since time immemorial and the rest of it since more than 30 years.

“(6) That the aforementioned piece of land was planted to coconut trees by the objector more than 14 years ago.

“(7) That the objector discovered this fraud only about the month of October, 1914, upon the municipal treasurer’s attempting to fix the boundaries of the applicant’s land.

“(8) That the objector has been unlawfully deprived of his property as regards the aforementioned piece of land appropriated by virtue of the said decree.

“By reason of all the foregoing, the objector prays the honorable court to order a review of the proceedings in this case, including the decree, to grant a new trial,

and afterwards in due time to render judgment in the objector's behalf by declaring the decree of December 13, 1913, to have been fraudulently obtained and to be null and void with respect to the registration of the parcel of land that is the subject-matter of the present motion; by declaring that this parcel belongs absolutely and exclusively to the objector; and by condemning the applicant to pay the costs and allowing such other remedies as justice and equity may require."

Said motion was accompanied by a number of affidavits, presented by citizens of the pueblo of Agoo, who alleged and swore that they had known the parcel of land in question and the boundaries thereof.

Said motion was also accompanied by the title deeds of the opponent, which title deeds contain a minute description of the parcels of land which the opponent claims.

Later the question whether or not the decree of the 13th of December, 1913, should be reopened was submitted to the court and the lower court decided that no fraud existed in obtaining said decree and denied the motion. From that order the opponent appealed to this court.

The only question presented by the appeal is whether or not the plaintiff committed a fraud against the defendant in obtaining the registration of the parcel or lot No. 3. If no fraud was committed, then the decree of registration is valid, and should not be reopened. If a fraud was committed, then the decree is invalid, and should be reopened.

The opponent alleges, in effect that the fraud consisted in the fact that the plaintiff induced him to believe, in the making of a former plan of the land, as well as the one which was presented accompanying the petition for registration, that it was attempting to have one parcel of land registered, while, as a matter of fact, it was attempting to have a different parcel of land registered. The facts upon that question are as follows:

First. There existed a stone wall between said lot No. 3 and the land of the defendant; that said stone wall had existed for a very long period; that the plaintiff had recognized said wall as the boundary line between said lot No. 3 and the land of the defendant.

Second. That said boundary line marked by said stone wall was recognized by the plaintiff in a map prepared at the request of the plaintiff by Edward P. Shurman, district engineer, in

the month of August, 1907 (see Exhibit A of the defendant), that said map was prepared by Shurman, according to the proof, at the request of the plaintiff and in the presence of a representative of the plaintiff and the defendant; that at the time of the preparation of said plan (Exhibit A) the defendant showed his title papers to said engineer and the representative of the plaintiff and it was then agreed that the stone wall was the boundary line between the said lot No. 3 and the land of the defendant.

Third. That some time after the preparation of said plan, Exhibit A of the defendant, the plaintiff had another plan prepared (see Exhibit A of the plaintiff), which plan was presented as a part of the petition for registration of said lot No. 3.

Fourth. That at the time of the preparation of said Exhibit A of the plaintiff, or rather at the time of the making of the memorandum preparatory to the preparation of said plan, the defendant, the surveyor, and a representative of the plaintiff, again personally examined the dividing boundary between lot No. 3 and the land of the defendant in relation with the title documents of the defendant, and then again the representative of the plaintiff, the surveyor, and the defendant mutually agreed that the said stone wall above mentioned was the true and correct boundary between the two parcels of property.

Fifth. Notwithstanding the fact that the representative of the plaintiff and the surveyor had, after investigation and examination of the title documents of the defendant, agreed that the stone wall was the true and correct boundary line between the two said parcels of property, when the map or plan was made (Exhibit A of the plaintiff) the dividing line was located so as to put practically all of the stone wall upon lot No. 3; in other words, notwithstanding the knowledge of the plaintiff and the surveyor relating to the fact that the stone wall constituted the true and correct boundary, the plan which was prepared located the dividing line so as to place practically all of the stone wall inside of lot No. 3, thereby not only depriving the defendant of the stone wall, but of a strip of land which he and his predecessors had owned, occupied, and enjoyed for a long period of years.

Sixth. To better illustrate the boundary line in question, we hereto add the following as Exhibit C. While no pretension is made that Exhibit C shows accurately the location of the said stone wall as the boundary line between lot No. 3 and the land of the defendant, it does show approximately the error committed by the plaintiff of which the defendant complained.

By an examination of said Exhibit C, which more or less accurately shows the dividing line between lot No. 3 and the land of the defendant, as indicated by the two plans [(a) Exhibit A

of the defendant and (b) Exhibit A of the plaintiff], it will be seen:

First. That the heavy line marked 12, 13, 14, 15, which is the stone wall above referred to., is the dividing line agreed upon by all parties at the time both of said plans were made; and

Second. That the dotted line marked in red ink, 1, 4, is the boundary line as indicated by Exhibit A of the plaintiff, which dotted red line shows that Exhibit A of the plaintiff was not prepared in accordance with the facts agreed upon at the time of the making of said Exhibit A of the plaintiff.

Seventh. By reference to Exhibit C, it will be seen, although not accurately by exact measurements, that the plaintiff, notwithstanding its agreement that the stone wall constituted the true and correct boundary line between the two said parcels of property, had obtained an order for the registration of a parcel of land with the boundary between lot No. 3 and the land of the defendant, very different from said agreement, and had deprived the defendant of a portion of his land, which he and his predecessors had occupied for a long period of years.

But in reply to the foregoing facts it may be said that the defendant should have stood in the portals of the Court of Land Registration and should have made an examination of the petition and plan presented by the plaintiff, for the purpose of ascertaining whether or not the plaintiff was complying with its agreement with him. In reply to that argument we think it is proper to say that the defendant had a perfect right to rely upon his agreement with the plaintiff, that the plaintiff would not make a plan including land which it knew did not belong to it and which it, by its representative, had agreed did not belong to it. We think the acts of the plaintiff constitute a fraud against the defendant and that the decree of the 13th of December, 1913, should be reopened and that the defendant should be given a hearing, and that the plan Exhibit A, as presented by the plaintiff, should be corrected so as to make the stone wall which has stood and been recognized as the true and correct boundary between lot No. 3 and the land of the defendant, the real boundary between the two said parcels of land, and without any finding as to costs. So ordered.

*Arellano, C. J., Torres, Moreland, Trent and Araullo, JJ., concur.*

---

Date created: May 29, 2014