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**[ G.R. No. 9845. March 28, 1916 ]**

**J. C. RUYMANN AND H. G. FARRIS, PETITIONERS AND APPELLANTS, VS. THE DIRECTOR OF LANDS, THE CITY OF MANILA, MARCIANO CABANDONG, LUIS CATOLOS, NAZARIO CRISOSTOMO, RUPERTO FAUSTO ET AL., OBJECTORS AND APPELLEES. (CASE NO. 6321, COURT OF LAND REGISTRATION.)**

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

**JOHNSON, J.:**

This was an action for the purpose of securing the registration under the Torrens system of a certain parcel or parcels of land located in the Province of Rizal, P. I., and within "Civil Reservation Case No. 81." Said "Civil Reservation Case No. 81" refers to a tract of land in the Province of Rizal which had been set aside by Executive Order No. 33 of the Governor-General of the Philippine Islands of July 26, 1904, for the purpose of protecting the watershed of the Mariquina River, which constitutes the source of the water supply of the city of Manila. Preliminary to the discussion of the question presented, certain admitted facts may be stated:

First. That while five cases or actions or petitions were presented in the Court of Land Registration, as indicated above, for the registration of a certain parcel or parcels of land, the said five cases were considered together by the lower court, and the fact is that all of said five cases or actions related to parts and parcels of land located within said reservation, and in fact related to the land which the petitioners in cause No. 6321 are attempting to have registered.

Second. That on the 26th of July, 1904, Executive Order No. 33 was issued by the Governor-General of the Philippine Islands, by virtue of which he set aside a tract of land in the Province of Rizal to be known as the "Mariquina Reservation," the purpose of which Executive Order was to protect the watershed of the Mariquina River, the source of the water supply of the city of Manila. Said Executive Order was issued in accordance with the provisions of Act No. 648, in its relation with Act No. 627 of the Philippine Commission.

Third. That on the 1st of October, 1909, the Court of Land Registration, in compliance with and in obedience to said Executive Order No. 33, and in compliance with said Acts Nos. 648 and 627, issued "Civil Reservation Order No. 81."

Fourth. That said "Civil Reservation Order No. 81" was duly published in accordance with the provisions of said laws.

Fifth. Said "Civil Reservation Order No. 81" required all persons who owned or claimed to own land within said reservation to present a petition for the registration of the land which they claimed within a period of six months from the date of the notice of said publication of said "Civil Reservation Case No. 81."

Sixth. The notification, as required by law and by said "Civil Reservation Case No. 81," was completed upon the 31st of December, 1909.

Seventh. That on the 11th of April, 1910, the said J. C. Ruymann and J. G. Farris presented in the Court of Land Registration a petition for the registration of a parcel of land alleged to contain 3,043 hectares, 85 ares, and 28 centares, located in the Mariquina watershed and within the Mariquina reservation, and bounded on all sides by lands belonging to the Insular Government.

Eighth. That to the registration of said parcel of land the Attorney-General, representing the Director of Public Lands, on the 9th of September, 1910, presented his opposition.

Ninth. That to the registration of said parcel of land the city of Manila, on the 9th of January, 1911, presented its opposition.

Tenth. That to the registration of said parcel of land practically all of the petitioners in cases Nos. 6762, 6850, 7543 and 7780 in the Court of Land Registration, also presented their opposition.

Eleventh. That on the 12th of November, 1910, the applicants, Ruymann and Farris, filed an amended petition, with another plan, asking for the registration of 10,967 hectares, 9 ares, and 49 centares. Said amended petition included the 3,043 hectares, 85 ares, and 28 centares of the petition presented on the 11th of April, 1910.

Twelfth. That on the 20th of October, 1911, the plaintiffs, Ruymann and Farris, presented a second amended petition for the registration of 16,648 hectares, 63 ares, and 45 centares. The second amended petition included the 3,043 hectares, 85 ares, and 28 centares of the

original petition.

Thirteenth. That to the registration of the additional lands included in the amended petitions of the plaintiffs, Ruymann and Farris (of November 12, 1910, and October 20, 1911), the Attorney-General, representing the Director of Lands, presented his oppositions, the first on the 10th of January, 1911, and the second on the 11th of November, 1911. The other objectors also presented their oppositions to the registration of the additional land included in said amended petitions. The opposition of the Attorney-General, as well as that of the other objectors, is based upon the fact primarily that the amended petitions, including additional lands, having been presented after the expiration of the six months provided for the presentation of petitions, could not be considered as amendments, but were, in fact, new causes of action, asking for the registration of additional lands, and having been presented after the expiration of six months could not be considered by the court.

Fourteenth. That the petition for the registration of the parcel of land claimed by Marciano Cabandong *et al.* was presented on the 29th of September, 1910. (See petition in said cause No. 6762.) Said petition was also presented after the expiration of the six months mentioned in Reservation Order No. 81.

Fifteenth. That the petition of Luis Catolos was presented on the 4th of November, 1910. (See petition in said cause No. 6850.) Said petition was also presented after the expiration of the six months mentioned in Reservation Order No. 81.

Sixteenth. That the petition of Nazario Crisostomo was presented on the 27th of September, 1910, but the complete application accompanied by a description and plan of the land was not in fact presented until the 26th of July, 1911. (See petition in said cause No. 7543.) Said petition was also presented after the expiration of the six months mentioned in Reservation Order No. 81.

Seventeenth. That the petition of Ruperto Fausto was presented on the 28th of September, 1910, but said petition was not completed until the 6th of November, 1911. (See petition in said cause No. 7780.) Said petition was also presented after the expiration of the six months mentioned in Reservation Order No. 81.

From the foregoing undisputed facts that the two amended petitions for additional lands were presented after the lapse of the six months allowed for the presentation of petitions for registration, together with the fact that all of the petitions in causes Nos. 6762, 6850, 7543, and 7780, in the Court of Land Registration, were presented and completed after the

expiration of said six months, we have the following questions presented: (*a*) In cases like the present, may the petitions presented within the time allowed be amended after the lapse of such time so as to give the court jurisdiction over the land not included in the original petition? and, (*b*) Do the courts obtain jurisdiction to register land in cases like the present, when the petition is not presented until after the expiration of the time allowed for the presentation of petition ?

If these two questions are to be answered in the affirmative, then the court was justified in denying, not only that part of the petition of the plaintiff which related to any part of the land except that portion which had been included in the original petition, or for the amount of 3,043 hectares, 85 ares, and 28 centares, but also the court was justified in denying the petitions for all of the lands in said cases Nos. 6762, 6850, 7543, and 7780.

Section 4 of Act No. 627 provides:

> "Sec. 4. All claims for private lands, buildings, and interests therein within the limits of such military reservation not presented to the Court of Land Registration within six months from the date of the notice in the previous section provided, shall be forever barred, and the lands, buildings, and interests therein shall be deemed to be public and not private property: *Provided, nevertheless*, That it shall be in the power of the Court of Land Registration, on suitable application, filed within three months after the expiration of the six months first aforesaid, to allow an application and claim to be filed upon proof that the failure to file it within the six months' limitation resulted from fraud, accident, mistake, or excusable negligence."

In considering the effect of the "six months notice" provision, we said, in the case of Jose *vs*. Commander of Philippine Squadron (16 Phil. Rep., 62), that

> "Section 4 of Act No. 627, as extended to Naval Reservations by Act No. 1138, providing that *claims* for private lands within such reservations *not presented* to the Court of Land Registration within the period specified in said section *shall be forever barred*, and such lands deemed to be public and not private property, is not in conflict with section 5 of the Act of Congress of July 1, 1902 (the Philippine Bill), and proceedings had in accordance with the provisions of Act No. 627

> resulting in so barring such claims constitute due process of law; and this although the claims for private lands so barred are based upon Spanish government grants."

If this is true—that if claims are not presented within the six months after notice they are "forever barred" and such lands deemed to be public and *not private property*— then may that condition be changed by the mere presentation of an amended complaint? In the present case, the amended petition or amended petitions on the part of the plaintiffs included more than five times as much land as they had included in their first petition. If the failure to present the petition or claim within "six months" made all the lands public, then could the amendment of the petition, by including more land, defeat that result? Was the amendment, in so far as it included other and additional lands, not, in effect, a new action, so far as it related to the additional lands?

Upon this question we are not without judicial authority. We believe that the rule is well established that an amendment which introduces a new or different cause of action, making a new or different demand, is equivalent to a fresh suit, upon a new cause of action; and the statute of limitations continues to run until the amendment is filed. (25 Cyc, 1308, and cases cited.)

Where the complaint in an injunction suit, for example, to restrain a defendant from occupying certain premises, is amended to include a larger tract, the suit will be deemed *to have been commenced upon the date of the amendment,* in determining whether the defendant had acquired title by adverse possession to the portion of the tract of land *not included in the original complaint.* (Montgomery *vs.* Shaver, 40 Oregon, 244.)

Where a plaintiff in a real action omits to describe in his original petition all of the lands detained from him by the defendant, he cannot by an amendment to his petition, made after the statute of limitations has run as to the land omitted, include such omitted land and have the amendment relate to the filing of the petition so as to defeat the plea of the statute as to the land brought in by the amendment. (Hills *vs.* Ludwig, 46 Ohio St. Rep., 373.)

Many other cases might be cited to the effect that an amendment to a petition which increases the amount of land prayed for will not relate back to the original declaration or petition so as to avoid the statute of limitations. (Burbage *vs.* Fitzgerald, 98 Ga., 582; Bentley *vs.* Crummey & Hamilton, 119 Ga., 911; Leeds *vs.* Lockwood, 84 Pa. St., 70; Bricken *vs.* Cross, 163 Mo., 449; Iron, etc., Co. *vs.* Broylea, 95 Tenn., 612; Cottonwood Lumber Co.

*vs.* Walker, 45 L. R. A. (N. S.), 429; Nelson *vs.* First National Bank, 139 Ala., 578; Gorman *vs.* Judge of Newaygo Circuit, 27 Mich., 138).

We believe that the generally accepted and recognized tests by which to determine whether a cause of action stated in an amended pleading is the same as that stated or attempted to be stated in the original pleading are suggested by asking the following questions: First. Will the same evidence support each? Second. Will a judgment on one be a bar to a judgment on the other? Third. Will the same measure of damages govern both? Fourth. Is each open to the same defense?

Upon the foregoing doctrine we are of the opinion and so hold that the amended petitions, including more and additional lands, were, in effect, new causes of action, and having been presented after the expiration of six months after notice could not be allowed, upon the authority of the case of Jose *vs.* Commander of Philippine Squadron (16 Phil. Rep., 62).

The second question above, relating to the other petitions in causes Nos. 6762, 6850, 7543, and 7780, must also be answered in the negative, upon the authority of the case of Jose *vs.* Commander of Philippine Squadron (16 Phil. Rep., 62).

Those questions having been disposed of, the only question which remains is whether or not the petitioners, Ruymann and Farris (in cause No. 6321, Court of Land Registration) are the owners of the land included in their original petition, or the owners of the parcel containing 3,043 hectares, 85 ares and 28 centares.

The court *a quo*, in a very carefully prepared and most interesting opinion, reached the conclusion that Ruymann and Farris were the owners of the said 3,043 hectares, 85 ares and 28 centares and ordered and decreed:

> "(*a*) That upon this decision becoming final, the chief surveyor of this court forthwith cause a resurvey and new plan to be made of the land included in the survey made by Ramon Jordana, in 1874, as shown by plan Exhibit 3, and explained by his report dated July 22, 1874, excluding therefrom such lands as may be situated outside of the limits shown in plan 13, but outside of the Mariquina water reservation;
>
> "(*b*) That upon the approval by this court of said resurvey and new plan, the order of such approval becoming final, the land described in said new plan be

> registered in the names of the applicants, J. C. Ruymann and H. G. Farris, in undivided and equal shares;
>
> "(*c*) That the cost of said resurvey and new plan be taxed in accordance with the provisions of section 36 of the Land Registration Act. It is so ordered."

Upon that question, to wit, whether or not Ruymann and Farris are the owners of the land described in their first petition, we have examined carefully the record and find the facts relating to the title of the plaintiffs to be as follows:

First. That in May, 1858, an Englishman by the name of Robert Wilson, who had become a naturalized Spanish subject, applied to the Government of the Philippine Islands for a title to certain unoccupied and uncultivated land in the vicinity of Boso-Boso and requested that the *Gobernadorcillo*, six old inhabitants, together with the parish priest, be directed to make an investigation of the land applied for, and to specify the boundaries, area, etc., and to forward their report to the proper authorities of the central government.

Second. That the request of Wilson was complied with and the report of the persons selected for the purpose of fixing the boundaries and area was made. Said persons found, after describing in a very general way the boundaries, that the parcel of land for which Wilson had applied contained 300 *quinones*, more or less, all covered with trees and underbrush, and recommended that the title to said land be granted to Wilson.

Third. That said report, after being visaed by the proper authorities of the central government, was accepted, and on October 8, 1858, a royal deed was issued to Wilson. An examination of said deed shows that there was granted to Wilson a parcel of land, with a very general boundary, composed of an area of 300 *quinones*. The title was granted upon the condition of payment of the amount required by law.

Fourth. That in the month of December, 1868, Wilson applied for permission to cut and remove timber, free of tax, from his land so granted as above indicated. The Government, in order to be sure that said timber should be cut upon the lands given to Wilson, appointed Francisco Gutierrez to make an inspection and to report thereon. Gutierrez made an inspection and report. He reported that there was timber on the land granted to Wilson; that the extent of the land included within the boundaries mentioned in the deed (royal deed) was far in excess of 300 *quinones*. The report of Gutierrez showed that Wilson had entered into the possession of much more than 300 *quinones* and deemed it prejudicial and

unwarranted to deprive him of the amount he was in possession of. Gutierrez recommended in his report that the exact amount occupied by Wilson be ascertained and that Wilson pay the Government for any excess which might be found.

Fifth. That upon a consideration of the report of Gutierrez, on the 21st of May, 1869, Wilson presented an additional petition, asking that he be permitted to acquire the lands in excess of the 300 *quinones* which were within the boundaries and specified in his deed, under the same conditions, and that he be permitted to pay the same price which he paid for the original lands.

Sixth. That this request (of May 21, 1869) was forwarded to the *Inspector del Cuerpo de Ingenieros de Montes,* with direction that a survey of the lands be made to see how much excess there was over the 300 *quinones* mentioned in the royal deed.

Seventh. That nothing appears to have been done upon the petition of May 21,1869, and the survey requested thereunder until the years 1870-1874. On July 22, 1874, Ramon Jordana, chief of the *Cuerpo de Ingenieros de Montes*, made a report. (See documents, page 56.) In his report he explained the cause of his delay. In his report he stated that he had made an inspection of the property and found "that the lands comprised within the boundaries mentioned in the title granted to Mr. Wilson are considerably in excess of 300 *quinones* and constitute the entire area of Boso-Boso, much of which is the inhabited portion, so that, construing the title in the sense that it confers upon Mr. Wilson the ownership of the entire area inclosed by the boundaries indicated in said deed, it would result that he would be made the owner of the agricultural lands as well as the *legua comunal*. Such a construction would be absurd, and it can therefore only be admitted that what the document in question means to say is, that there were conceded to Mr. Wilson, 300 *quinones* of land within the jurisdiction of Boso-Boso, the boundaries of which (and not those of the estate) are the ones indicated, outside of the *legua comunal*, as is clearly stated."

Jordana concluded his report by saying:

> "In the opinion of the undersigned it would be proper to issue to the applicant a new title deed, in which boundaries of the property will be specifically stated, mentioning, in order to avoid doubts, that it comprises certain tracts of Painan, Pinugay, Dagat-Dagatan, San Jose and San Miguel, its limits being on the north the creek which runs from east to west, forming the northern limit of the level land of Painan, on the east the high divide, which comprehends the peak of

> Masungay, on the south the ridge which follows the southern part of the level land of San Miguel, and on the west the Boso-Boso River and a ridge which runs parallel with this river on the west side, within which ridge you will find Sungay and Gerro Santiago."

The report continued:

> "It remains only then to tell you that the boundaries are indicated on the attached plan by the line in red, and that the area comprised is 585 *quinones*, 3 *balitas* and 60 (6) *loanes*."

The foregoing report was forwarded to the *Administrador Central de Rentas Estancadas de Filipinas,* who reviewed the entire history of the title and recommended that Wilson be allowed to purchase the excess. (See documents, page 65.)

All of the foregoing reports were finally combined and sent to the Attorney-General for the Bureau of Lands, and later, with the opinion of the Attorney-General, were sent to Chinchilla, chief of the *Direccion General de Hacienda de Filipinas,* who after making a careful examination of said reports approved the same. (See documents, pages 86-88.) Wilson was notified of the recommendation of the Government and later made the necessary payments for the additional lands.

On November 4,1874, the *Administrador Central de Rentas Estancadas* notified Chinchilla that all of the necessary steps had been taken and requested him to issue a new title of the property, composed of 585 *quinones*, 3 *balitas* and 6 *loanes*, to Robert Wilson, with the condition that when said document was issued it should invalidate the one issued to Wilson on the 8th of October 1858. (See documents, page 104.)

On December 4,1874, Chinchilla sent a letter to the *Direction General de Hacienda de Filipinas* directing it to issue the title requested by Wilson to him, have it verified and sent to file. (See documents, page 106.)

On the same day (December 4, 1874), another title was actually issued to Wilson. This second title states that the former title adjudicated certain lands within certain boundaries, and that there appearing under a correct and exact survey made by the engineer appointed for that purpose an excess of 285 *quinones*, 3 *balitas* and 60 (6) *loanes* contained in said

hacienda, it made a total of 585 quinones, 3 balitas and 60 *loanes* really contained in said hacienda. (See documents, page 111.)

On September 10, 1878, a surveyor and representative of the Government, together with Wilson, went upon the land and placed monuments. (See pages 118-120.)

On September 20, 1878, the Director of the Civil Administration approved the placing of the monuments and Wilson was duly notified of that fact. (See documents, page 124.)

Later, further complaints by the inhabitants of Boso-Boso were made against Wilson, who stated that he had included their lands in his hacienda. The Governor-General, after examining the record, decided that the towns were without right. He said:

> "I have examined the record of the *replanteo de mojones* and it shows that the work was done with exactness and the monuments were located in the places corresponding to the plan of 1874." (See documents, pages 126-129.)

The record clearly shows that Robert Wilson became the owner, by virtue of a royal deed, of 585 *quinones*, 3 *balitas*, and 60 (6), *loanes*, and that the petitioners, Ruymann and Farris, are the successors in interest of said parcel of land. In view of the above fact, therefore, without discussing the question of the equivalent value of 585 *quinones*, 3 *balitas*, and 60 *loanes* to the 3,043 hectares, 85 ares, and 28 centares which the petitioners included in their first petition, we are of opinion that they are only entitled to have that quantity of land registered in their name. Not having presented their petition for more than that amount of land within the six months provided for under the reservation notice, that is all the land which they can now claim. (Jose *vs.* Commander of Philippine Squadron, 16 Phil. Rep., 62).

Therefore, in consideration of all of the foregoing, we are of the opinion and so decree, that the judgment of the lower court denying the registration in favor of the petitioners in causes Nos. 6762, 6850, 7543 and 7780, be confirmed, and that a judgment be entered ordering and decreeing the registration of that part or parcel of land included in the original petition of Messrs. J. C. Ruymann and H. G. Farris, amounting to 3,043 hectares, 85 ares and 28 centares, without costs. So ordered.

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

Date created: May 29, 2014