

[ G. R. No. 17043. June 22, 1922 ]

**FLORENTINO PAMINTUAN, PETITIONER, VS. HONORABLE PRIMITIVO SAN AGUSTIN, AUXILIARY JUDGE OF THE SECOND JUDICIAL DISTRICT, THE SHERIFF OF PAMPANGA, NICOMEDES ESPINOSA, ROSA ESPINOSA, EUSEBIA ESPINOSA, AND FRANCISCA DAVID, RESPONDENTS.**

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

**OSTRAND, J.:**

This is a petition for a writ of certiorari, requiring the respondent judge of the Court of First Instance to certify to this court the record in land registration case No. 11732, and as much of the record of cadastral case No. 132, as pertains to lot No. 625, of the cadaster of Mabalacat, Province of Pampanga. The petitioner further prays that upon said records being so certified, all proceedings had in said cadastral case in relation to said lot No. 625, be declared null and void. By order of this court dated November 30, 1920, a preliminary injunction was issued, directing the respondents to return the possession of the land in question to the petitioner and under another order dated August 29, 1921, the records mentioned were certified to this court.

An examination of the records before us shows that in land registration case No. 11732, and under the date of April 19, 1917, the aforesaid lot No. 625 was decreed in favor of Florentino Pamintuan, the petitioner herein, by the Court of First Instance of Pampanga, and that certificate of title No. 540 covering said lot was thereupon issued to him in June, 1918.

In the meantime cadastral case No. 132 was instituted. This case embraced the district in which the lot in question was situated and the lot was given its cadastral number in the proceedings and was marked on the plans as land in regard to which registration proceedings were pending under Act No. 496. Florentino Pamintuan inadvertently failed to claim the lot at the trial of the cadastral case, and the Court of First Instance in a decision dated April 29, 1919, awarded it to the respondents Nicomedes, Maria Mercedes, Rosa, and

Eusebia Espinosa, and ordered the cancellation of certificate of title No. 540. The persons to whom the land had been adjudged subsequently conveyed their interest to the respondent Francisca David, in favor of whom the Court of First Instance issued a writ of possession, placing her in possession of the land. The possession was restored to the petitioner by virtue of the preliminary injunction issued by this court on November 30, 1920. It may be noted that no final decree has as yet been issued in the cadastral case in regard to the lot.

Florentino Pamintuan knew nothing about the adjudication of the land in favor of the Espinosas until the clerk of the Court of First Instance of Pampanga required him to surrender his certificate of title for cancellation. He then presented a motion to the Court of First Instance, asking that the decision of the court in regard to the lot in the cadastral case be set aside and that the writ of possession issued by virtue of said decision be recalled. This motion was denied by the court on November 16, 1920.

We are of the opinion that the court below exceeded its jurisdiction in undertaking to decree in a cadastral case land already decreed in another land registration case. Cadastral proceedings are authorized and regulated by Act No. 2259. The scope and purpose of this Act is expressed in its title: "An Act providing<sup>1</sup> certain special proceedings for the settlement and adjudication of land titles." What is understood by "settlement and adjudication" is very clearly indicated in section 11 of the Act, which reads as follows:

"SEC. 11. The trial of the case may occur at any convenient place within the province in which the lands are situated or at such other place as the court, for reasons stated in writing and filed with the record of the case, may designate, and shall be conducted in the same manner as ordinary trials and proceedings in the Court of Land Registration, and shall be governed by the same rules. Orders of default and confession shall also be entered in the same manner as in ordinary cases in the same court and shall have the same effect. All conflicting interests shall be adjudicated by the court and decrees awarded in favor of the persons entitled to the lands or the various parts thereof, and such decrees, when final, shall be the basis for original certificates of title in favor of said persons, which shall have the same effect as certificates of title granted on application for registration of land under the Land Registration Act, and except as herein otherwise provided all of the provisions of said Land Registration Act, as now amended, and as it hereafter may be amended, shall be applicable to proceedings under this Act, and to the titles and certificates of title granted or issued

hereunder.”

As will be seen the “settlement and adjudication” of a land title under the Cadastral Act is exactly that provided for in the Land Registration Act, No. 496, i. e., a proceeding culminating in the issuance of a final decree and a Torrens certificate of title in favor of the owner of the land.

The title to the land is therefore fully as well settled and adjudicated, within the meaning of the Cadastral Act, by a final decree in an ordinary land registration case as it would be by a similar decree in a cadastral case and, obviously, it cannot have been the intention of the Legislature to provide a special proceeding for the settlement and adjudication of titles already settled and adjudicated. It is, indeed, more than doubtful if the Legislature would have the power to enact such a provision had it so desired; the landholder who possesses a settled and adjudicated title to his land cannot be deprived of that title through another settlement and adjudication of a similar character.

The intention of the Legislature to exclude land already registered from the operation of the Cadastral Act is further indicated by the provision of section 18 of the Act to the effect that, no apportionment of any part of the costs and expenses of cadastral proceedings can be made against such lands.

We hold that in cadastral cases the jurisdiction of the court over lands already registered is limited to the necessary correction of technical errors in the description of the lands, provided such corrections do not impair the substantial rights of the registered owner, and that such jurisdiction cannot operate to deprive a registered owner of his title.

The petition is granted, and the proceedings in the court below in regard to lot No. 625 of the cadaster of Mabalacat are declared null and void, with the costs against the respondents Nicomedes Espinosa, Maria Mercedes Espinosa, Rosa Espinosa, Eusebia Espinosa, and Francisca David, jointly and severally. So ordered.

*Araullo, C. J., Malcolm, Avanceña, Johns, and Romualdez, JJ., concur.*

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