44 Phil. 83

[G. R. No. 18932. November 24, 1922]

PLACIDO ESCUDERO AND CLAUDIA MARASIGAN, PETITIONERS AND APPELLEES, VS. THE DIRECTOR OF LANDS, RESPONDENT AND APPELLANT.

D E C I S I O N

JOHNSON, J.:

The purpose of this action was to obtain the registration, under the Torrens system, of a piece or parcel of land located in the barrio of San Jose of the municipality of San Pablo, Province of Laguna, composed of 57 hectares', 63 ares, and 50 centares, which is particularly described by metes and bounds in the third paragraph of the complaint. The action was commenced in the Court of First Instance of the Province of Laguna on the 13th day of September, 1920. The petitioners rely upon their right to have said parcel of land registered, first, upon a *composition con el Estado* issued to their predecessor in 1886, and second, upon long years of possession in accordance with subparagraph 6 of section 54 of Act No. 926. To the registration of said parcel of land the Director of Lands, the Director of the Bureau of Forestry, and others presented their opposition. Upon the issue presented, the lower court, in a very carefully prepared opinion, reached the conclusion that the plaintiff Claudia Marasigan, the wife of Placido Escudero, was the owner in fee simple, under the law, of said parcel of land and was entitled to the registration of the same under the Torrens system, and so decreed. From that decision the Director of Lands and the Director of the Bureau of Forestry appealed. The other oppositors did not appeal. Later, the Director of the Bureau of Forestry withdrew his. appeal. The only appellant therefore is the Director of Lands.

From an examination of the evidence adduced during the trial of the cause it appears that in the year 1886 the ancestors of the said Claudia Marasigan obtained a parcel of land by *composition con el Estado*, composed of 20 hectares, 43 ares, and 49 centares; that said ancestors and the plaintiffs have been in the peaceful, quiet, and uninterrupted enjoyment of the possession of said parcel of land since that time (1886); that in said *composicion* con

el Estado there appear the names of the owners of the adjoining lands; and that the proof clearly shows that the present owners of the adjoining lands are the successors' in interest of the owners of the boundary lands mentioned in said composition con el Estado. The identity of the land is therefore proved beyond question. In view of the evidence adduced, there can be no doubt that the land which the petitioners herein are now occupying is the identical land mentioned in said *composicioncon el Estado,* even though it is found that it consists of a larger area than that mentioned in said document. The record shows that the survey of the land mentioned in said composition was very defectively made; that its boundary lines were not accurately measured, and that the boundary lines were only indicated at the time of the survey.

The Attorney-General in his brief attempts to make it appear that because the said *composicion* was a grant only of 20 hectares, 43 ares, and 49 centares, the petitioners are not now entitled to the registration of a larger parcel. That contention is not tenable, providing the petitioners and their predecessor entered into and remained in possession of the parcel of land and have continued to possess the same for a period sufficient under the law to perfect their title to agricultural land. We said in the case of Andres vs. Pimentel (21 Phil., 429) that "If plaintiff locates the land which he claims by means of witnesses and old Spanish records with a fair degree of accuracy, minor differences between such evidence and the actual boundaries of such land may be accounted for by the lapse of time, in which changes in the ownership of real estate may occur by reason of death or conveyance, and by the fact that such old Spanish records were never intended to be as accurate as the present method of locating land by surveys."

In the case of Loyola vs. Bartolome (39 Phil., 544) it was said that "A judgment in an action to recover a parcel of land and to obtain a judicial declaration of ownership in favor of the - plaintiff, is not vitiated by an erroneous statement relative to the area of the questioned parcel, where it appears that the land is so described by boundaries as to put its identification beyond doubt. That which really defines a piece of ground is not the area calculated with more or less certainty, mentioned in its description, but the boundaries therein laid down, as inclosing the land and indicating its limits."

One who has color of title, has acted in good faith, and has an open, peaceable, and notorious possession of a portion of the property sufficient to apprise the community and the world that the land is for his enjoyment, is entitled to a certificate of title to the entire tract of land for which he asks registration, providing his occupation of the agricultural land has been for a period sufficient under the law to grant him a fee simple title. (Ramos vs.

Director of Lands, 89 Phil., 175; Daywalt vs. Endencia, R. G. No. 7331, November IB, 1912, not reported.)

Our attention is called to the fact that the appellant did not assign as error the order of the lower court denying the motion for a new trial presented by him. His failure to do so of course deprived this Court of the right to examine the evidence adduced during the trial of the cause. In such a case we are bound by the facts found by the lower court. (Subparagraph 2, section 497, Act No. 190; Benedicto vs. De la Rama, 3 Phil., 34; 201 U. S., 303; 11 Phil., 746.)

In view of all of the foregoing, we find no reason nor justification for modifying the decree of the lower court. The same is therefore hereby affirmed. So ordered.

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

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