

G.R. No. L-9420

[ **G.R. No. L-9420. December 18, 1956** ]

**BRIGIDA V. DE GARCHITORENA, PETITIONER, V.S. ARMANDO CLEDERA,  
RESPONDENT**

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

**REYES, J.B.L., J.:**

Armando Cledera had filed in 1950 a petitioner for registration under Act 496 of two parcels of urban land situated in the City of Naga, as shown in plan PSU-121721. Opposition was filed on May 30, 1951 by Brigida V. de Garchitorena on the sole ground that the house owned by Primitivo Rivero, which was erected on the land previously described, violated the legal easement in her favor as adjoining owner, because its windows opened on walls standing at less than the distances prescribed by law from the boundary line. After trial, the Court of First Instances granted the registration applied for on March 13, 1952, and ordered the owner of the house to close the windows facing the land of Brigida V. de Garchitorena.

On April 16, 1952, the Court issued an order for the expedition of the corresponding degree of title by the Chief of the General Land Registration Office.

One and a half months later, on June 1952, Brigida V. de Garchitorena for the admission of an amended opposition, contending that Cledera (the original applicant) had included some 24 sq.m. of her own property, and asking the exclusion of the same from the degree of registration. But on June 21, 1952, the Court issued an order granting withdrawal of the amended opposition, because the parties had agreed to a resurvey of the land sought to be registered. On November 3, 1952, surveyor Pantaleon Panelo (apparently designated to make the resurvey) filed a report in Court, recommending that the original plan PSU-121721 be amended by segregating therefrom lots 3 and 4 that allegedly belonged to Mrs. Garchitorena. Cledera objected to the report, averring that the resurvey was not authorized by him; but the trial Court overruled was not authorized by him; but the trial

Court overruled his objection on the ground that resurvey had been to by his counsel before the latter was discharged.

Thereafter, the Court a quo issued an order on December 24, 1952, setting aside the original decision of March 13, and reopening the case, on the ground that former trial was held without notice to the oppositor Mrs. Garchitorena, and in the absence of her counsel; and two weeks later, on January 7, 1953, a new decision was rendered reaffirming the registration applied for by Cledera, except the 24 sq. m. that were claimed by, and adverse possession since 1939, when one Stillion Stilianopules verbally ceded to her said tract of 24b sq. m.

Upon petition of Cledera, the Court of Appeals reversed the decision in favor of Mrs. Garchitorena, holding that the reopening of the registration case, and the issuance of the amendatory decision had long before become final; that altho the record did not show that Mrs. Garchitorena was notified of the decision, the presumption of performance of official functions nevertheless stood against her and had not been overcome. The Court of Appeals went further; it examined the evidence for Mrs. Garchitorena; found that her claim of cession by Stilianopulos was not supported by the evidence and concluded that the facts were against her claim of adverse possession for the statutory period.

Mrs. Garchitorena then resorted to this Court, on the ground that holding of the Court of Appeals that the first decision in the registration case had become final was against the law, because she was never notified of said original decision.

Our opinion is that the issue raised by petitioner Mrs. Brigida V. de Garchitorena are now academic and moot. The Court of Appeals went into the merits of her case, and after a review of her own evidence found that her claim of title by adverse possession was not preponderantly established. Whether petitioner was in possession; whether her possession was adverse; and whether it was maintained for the period specified by law, are all question of fact as to which the decision of the Court of Appeals is conclusive. This Court does not review such findings of fact.

Manifestly, it would be superfluous for us to decide the procedural issue posed by the petitioner, Mrs. Garchitorena. Even if it were true, as she contends, that the Court of First Instances had jurisdiction to render the amendatory decision in her favor of January 7, 1953, still her position would not be improved, since that judgment was reversed on the merits by the Court of Appeals on findings of fact.

In view of the foregoing, this petition for review is denied, and the judgment of the Court of Appeals is affirmed. Costs against petitioner, Brigida V. de Garchitorea.

*Paras, C.J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.*

---

Date created: September 07, 2010