

100 Phil. 958

[ G. R. No. L-8065. February 25, 1957 ]

**ELIGIO NARAG, PETITIONER, VS. THE COURT OP APPEALS AND JUAN DEL ROSARIO, RESPONDENTS.**

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

**PADILLA, J.:**

Appeal by certiorari under Rule 46 to review a judgment of the Court of Appeals affirming that of: the Court of First Instance of Cagayan which had denied the registration of Lots Nos. 2 and 3 as delimited on plan Psu-126717 (Exhibit C) under Act No. 496 applied for by Eligio Narag.

The petitioner applied for the registration of a parcel of land as delimited on plan Psu-102097 (Exhibit A) and three parcels of land designated as Lots Nos. 1, 2 and 3 and as delimited on plan Psu-126717 (Exhibit C). The Director of Lands objected to the application on the ground that the four parcels of land were part of the public domain; Irene Pagunan, as to a part of the parcel of land as delimited on plan Psu-102097 (Exhibit A), which she withdrew at the hearing; and Juan del Rosario, as to Lots Nos. 2 and 3 as delimited on plan Psu-126717 (Exhibit C).

After hearing the Court confirmed the title of the petitioner and decreed the registration in his name of the parcel of land as delimited on plan Psu-102097 (Exhibit A) and of Lot No. 1 as delimited on plan Psu-126717 (Exhibit C); denied his application as to Lots Nos. 2 and 3 of plan Psu-126717 (Exhibit C); sustained the objection of Juan del Rosario; and dismissed the opposition of the Director of Lands. The petitioner appealed from the judgment and decree insofar as he was denied registration of Lots Nos. 2 and 3 as delimited on plan Psu-126717 (Exhibit C). The Director of Lands also appealed but later withdrew his appeal. As already stated, the Court of Appeals affirmed the judgment of the land registration court. Relying upon a comment of Manresa on the point which says—

\* \* \* Por otra parte, ateniendonos a la declaracion legal, advertiremos que la distribucion del acrecentamiento proveniente de aluvion entre los ribereños se debe entender verificada siguiendo siempre la extension de la linea de la propiedad confinante, quedando naturalmente a la apreciacion de hecho y sobre el terreno la resolution de las dificultades que pueden surgir a causa de las irregularidades de las fincas y del cauce de los rios, (Vol. 3, 6th ed., p. 239)

the Court of Appeals held that—

In no case should the dividing line be extended in such a way that the other adjacent owner be prejudiced; that line should be extended in its natural course, that is, in a straight line from the original point. To do otherwise, it would work injustice to the other adjacent owner and such was never envisioned by the legislator, and certainly the ends of justice could not be served in that way. For this reason, we hold and declare that the dividing line between the properties of Eligio Narag and Juan del Bosario shall be extended in a straight line from the old point on the East towards the West, thereby leaving the soil incorporated by way of accretion to the original land of Juan del Rosario.

The pronouncement of the Court of Appeals is predicated upon the following findings—

\* \* \* that oppositor Juan del Rosario bought from Elena Banguilan a certain parcel of land on February 15, 1947, (Exh. "1-del Rosario"). As the Cagayan River, which is the western boundary, receded westward, the tillable portion of this land increased towards this direction. The original land as well as the accretion is embraced in the plan Psu-126718 Exh. "2-del Rosario"). Elena Banguilan and her brother Regino Banguilan were in open and exclusive possession for over forty years of the land sold to Juan del Rosario, and at the time of the sale in 1947, it was already more than three hectares including the accretion. Thru his tenants, the oppositor-vendee, Juan del Rosario, has been in possession of this parcel of land, including the accretion, cultivating the same without interruption up to the present.

It also appears that when Eligio Narag) purchased the land from Amando Narag the

former and Juan del Rosario, as successor-in-interest of Elena Banguilan, became adjacent owners on the South. Thus, they have on the West as their common boundary the Cagayan River which, by work of nature, receded westward

Lots Nos. 2 and 3, as delimited on plan Psu-126717 (Exhibit C), are alluvial lands which belong to Juan del Rosario, the riparian owner, subject to legal easements as provided for by law.

Finding no error in the judgment appealed from, we affirm it, with costs against the petitioner.

Paras, C. J., Bengzon, Moniemayor, Reyes, A., Bautista, Angelo, Labrador, Conception, Reyes, J. B. L., Endencia, and *Felix, JJ.*, concur.