

## **BONIFACIO GOTICO, PLAINTIFF-APPELLANT, VS. LEYTE CHINESE CHAMBER OF COMMERCE, DEFENDANT-APPELLEE.**

*G.R. No. L-39379. April 30, 1985*

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/45651ddb79d/>

---

### **MELENCIO-HERRERA, J.:**

The erstwhile Court of Appeals certified this appeal from the Decision of the Court of First Instance of Leyte, Branch IV, Tacloban City, in Civil Case No. 3088, to this instance, as the issues raised involve pure questions of law.

The controversy revolves around the ownership of a portion of Lot No. 4875 of the Tacloban Cadastre, with a total area of 1,306 sq. ms., situated at Bo. Utap, Litid District, Tacloban City. The Disputed Portion consists of approximately 872 square meters.

On July 13, 1961, plaintiff-appellant obtained Original Certificate of Title No. P-139 covering the entirety of the said Lot 4875.

On the strength of that title, plaintiff-appellant filed the instant case for Ejectment (Civil Case No. 3088), against defendant-appellee, the Leyte Chinese Chamber of Commerce, on August 8, 1962. The Complaint alleged that plaintiff-appellant was the "owner and possessor since time immemorial tacked by purchase to his predecessors-in-interest of Lot 4875;" that defendant-appellee, without any color of right, had occupied the Disputed Portion and utilized the same as a private cemetery and that:

"plaintiff demands a monthly rental of the above portion of land of P500.00 to be computed from date of defendant's occupancy in 1928"[1] (bold supplied)

Plaintiff-appellant then prayed for judgment ordering defendant-appellee to vacate the Disputed Portion and to declare him the lawful owner and possessor thereof and

"(b) ordering defendant to pay the amount of P200,000.00 in rentals of the premises in question, to be computed from 1928 to the filing of the complaint x x x " (Underscoring ours).

Defendant-appellee traversed the Complaint by claiming that it had been in possession of the Disputed Portion since 1928 when it built a public cemetery thereon with the approval of the Bureau of Health; that plaintiff-appellant had obtained title to Lot 4875 by means of fraud and false statements of fact; and that on May 2, 1962, or prior to the institution of the Ejectment Case, it had already petitioned the Bureau of Lands for the cancellation of plaintiff-appellant's title over Lot 4875. Defendant-appellee then prayed for the dismissal of the Complaint and for the declaration of plaintiff-appellant's title as null and void.

On January 29, 1965, the Bureau of Lands filed Civil Case No. 3618 entitled "Republic of the Philippines, represented by the Director of Lands vs. Bonifacio Gotico and the Register of Deeds of Tacloban City," for the reversion of Lot 4875 to the Government and the cancellation of plaintiff-appellant's title (Reversion Case).

Considering that both cases (Civil Cases Nos. 3088 and 3618) involved the same parties and the same subject matter, the parties agreed that the two cases be jointly heard. A joint Pre-trial was held wherein both parties agreed that:

“x x x stipulations and admissions in Civil Case 3618 in so far as they are material and relevant to Case 3088 shall be taken into consideration in said Case 3088, and that whatever stipulations and admissions made by the parties in Case 3088 in so far as they are pertinent to said Civil Case 3618.”[2]

In the same Pre-trial hearing, the parties stipulated on the following facts:

"1) the admission of the allegations of paragraphs 1, 2, 3, and 4 of the complaint;

"2) that the cemetery owned by the Leyte Chinese Chamber of Commerce is within Lot 4875 and is occupying an area of 872 square meters;

"3) that the defendant had been occupying and using the said land in question since 1928;

"4) that Lot 4875, where the cemetery in question is also included, is covered by OCT No. P-139, marked Exhibit 'A' in Civil Case No. 3088 and as Exhibit '1' in Civil Case No. 3168, and that after the issuance of OCT No. P-139, there was issued Tax Declaration No. 17392, in the name of BONIFACIO GOTICO and which is marked as Exhibit 'B' in Civil Case No. 3088 and as Exhibit '2' in Civil Case No. 3618.”[3] (Underscoring supplied).

Realizing that the admission as to the date of commencement of defendant-appellee's possession made in paragraph 3 of the aforesaid Pre-trial agreement, as well as the averments made in paragraph 4 of the Complaint and in the Prayer thereof were fatal to his cause, plaintiff-appellant assisted by a new counsel, filed an "Omnibus Motion to Amend Complaint and Recall or Correct some Pre-trial Admissions." The thrust was to amend the year "1928" to 1961 not only in paragraph 4 and in the Prayer of the Complaint but also in the aforementioned Pre-trial Agreement. The Court denied the Motion for amendment and/or correction for being unmeritorious. Two Motions for Reconsideration filed by plaintiff-appellant met with the same fate.

In the mean time, the Reversion Case was decided in favor of the Government and plaintiff-appellant's title was ordered cancelled upon the finding that he had, in collusion with the Land Investigator, committed fraud that vitiated the grant of his Free Patent.

On the basis of said judgment, defendant-appellee filed a Motion for Summary Judgment in the Reversion Case alleging that there is "no genuine issue between the parties x x x and the defendant is entitled as a matter of law to the dismissal of the x x case." Summary judgment was rendered therein ordering reversion of Lot 4875 to the State.

Subsequently, in the Ejectment Case, the trial Court rendered judgment dismissing the suit, after opining that:

"x x x the Court has, therefore, no alternative but to render in this case a Decision which must be consistent with the Decision of this Court in Civil Case No. 3618, especially upon a consideration of the admission of Bonifacio Gotico, not only in his complaint but also in the pre-trial hearing, that the defendant had been occupying the land in question since 1928."

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court, therefore, orders the dismissal of this case with costs against the plaintiff."

Hence, the appeal to the then Court of Appeals. The following Assignments of Error were raised:

"1. The Trial Court erred in dismissing the case at bar simply due to the erroneous allegation of previous counsel that possession by the defendant-appellee Leyte Chinese Chamber of Commerce was since 1928

instead of 1961, as the same was never the intention of the plaintiff, but 1961 when the Leyte Chinese Cemetery was transferred to appellant's lot;

"2. The Trial Court erred in dismissing the case on the ground that per decision of the same Trial Court of the other Civil Case No. 3618 involving the same subject matter, for reversion by the Republic of the Philippines represented by the Director of Lands, as said Decision was appealed as CA-G.R. No. 41960-R, has not as yet become final and could not be the basis of grounds for dismissal of the case at bar, and;

"3. The Trial Court erred in dismissing the case at bar as its conclusion is contrary to law, the evidence and Supreme Court Decisions."

1. We find that the Trial Court correctly exercised its discretion in denying plaintiff-appellant's Motion to Amend paragraph 4 of the Complaint and paragraph (b) of the Prayer by changing the year "1928" to 1961. Section 3, Rule 10 of the Rules of Court provides:

"Sec. 3. Amendments by leave of court. — After the case is set for hearing, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay the action or that the cause of action or defense is substantially altered. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard."

The amendment sought is a substantial one. A claim of possession by either or both parties involving a span of 33 years is surely a substantial element of the cause of action. Besides, even if the amendment were allowed, there is preponderant evidence proving possession by defendant-appellee since 1928. It had filed the application for the conversion of the Disputed Portion into a cemetery on February 20, 1928. Its application was approved on May 17, 1928 by the Bureau of Health. Since then, that portion had remained part of a Chinese cemetery. Its possession since 1928 was also recognized in the Reversion Case. All of which disprove plaintiff-appellant's allegations in his application for a Free Patent that:

"4. The land described and applied for - is not claimed or occupied by any other person, but is a public land. I entered upon and began cultivation of the same on the 28th day of January, 1961, and since that date I have made thereon the following improvements, viz: bamboos, bananas and coconut." [4]

Similarly, we find no error in the denial by the Trial Court of plaintiff-appellant's Motion to recall or correct some pre-trial admissions. Pursuant to Sec. 4, Rule 20 of the Rules of Court, the Order entered at the pre-trial controls the subsequent course of the action. Furthermore, under Rule 129, section 2, it is necessary for a party who desires to be relieved of the effects of admissions in the pleadings and any admissions made in the course of the trial, to show that the admission had been made through palpable mistake. In this case, that there was no such palpable mistake is shown by the fact that the year "1928" was stated not only in paragraph 4 of the Complaint, but repeated in the Prayer, and reiterated in the Pre-trial admissions.

Under the circumstances obtaining and in the face of the evidence, the rule on liberality of construction of the Rules cannot be successfully invoked. To do so would be obstructive of the interests of substantial justice.

2. The second error raised is neither meritorious. Plaintiff-appellant who had agreed with defendant-appellee that the evidence in either of the two consolidated cases, when relevant, would be considered in the other, is now estopped from asserting the contrary now that he had lost both cases.

And more significantly, since plaintiff-appellant's title was cancelled in the Reversion Case he has lost any cause of action he may have had in the Ejectment Case. The appeal in the Reversion Case (CA-G.R. No. 41960-R) had been resolved against plaintiff-appellant on December 13, 1972.

3. The foregoing discussions also dispose of the third issue raised, which is but a consequence of the first two errors assigned.

WHEREFORE, the judgment of the then Court of First Instance of Leyte, Branch IV, is hereby affirmed in toto. Costs against plaintiff-appellant.

**SO ORDERED.**

Teehankee, (Chairman), Plana, Relova, Gutierrez, Jr., De La Fuente, and Alampay, JJ., concur.

---

[1] Complaint, paragraph 4.

[2] T.s.n., pp. 18-19, July 14, 1966.

[3] T.s.n., pp. 13-18, Joint Pre-trial Hearing in Civil Cases Nos. 3088 and 3618, July 14, 1966.

[4] Record on Appeal, p. 10.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.