

**REPUBLIC OF THE PHILIPPINES AND THE DIRECTOR OF LANDS,
PETITIONERS, VS. HON. NUMERIANO G. ESTENZO, AS JUDGE OF THE
COURT OF FIRST INSTANCE OF LEYTE, BRANCH V, ORMOC CITY
AND JAI...**

G.R. No. L-35780. January 27, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

This is an appeal by certiorari from the decision, dated September 26, 1972, of the Court of First Instance of Leyte in Cadastral Case No. 29, LRC Rec. No. 1750, Lot No. 5463-B, Ormoc Cadastre, which set aside the cadastral decision, dated October 31, 1940, declaring Lot No. 5463-B, Ormoc Cadastre, as public land, and adjudicated Lot No. 5463-B to private respondent Jaime D. Omega.

On August 20, 1972, private respondent Jaime D. Omega filed with the Court of First Instance of Leyte a petition to reopen the cadastral proceedings of Lot No. 5463-B, Ormoc Cadastre, alleging that he is the absolute owner and actual possessor of a portion of said Lot No. 5463, denominated as Lot No. 5463-B and containing an area of 15,868 square meters; that he acquired the same by purchase from one Alejandro Padayao; that he and his predecessors-in-interest have been in continuous possession and occupation of said lot since time immemorial and have been paying the taxes thereon. Respondent Omega sought the setting aside of the decision of the cadastral court, dated October 31, 1940, and prayed that he be allowed to file his cadastral answer.

On September 26, 1972, respondent Judge rendered a decision setting aside the decision of the cadastral court, dated October 31, 1940, declaring Lot No. 5463 as public land, and adjudicating Lot No. 5463-B in favor of respondent Jaime D. Omega and Asuncion Con-Ui.

Hence, this appeal.

Clearly, respondent Judge is without jurisdiction over the subject matter of the cadastral proceedings. The land subject matter of the case had been declared public land in a decision, dated October 31, 1940 of the cadastral court. Under the provisions of Republic Act 931, which took effect on June 20, 1953, the period for reopening of cadastral proceedings expired on June 20, 1958. The pertinent provision of said Act is as follows:

"SECTION 1. All persons claiming title to parcels of land that have been the object of cadastral proceedings, who at the time of the survey were in actual possession of the same, but for some justifiable reason had been unable to file their claims in the proper court during the time limit established by law, in case such parcels of land, on account of their failure to file such claims, have been, or are about to be declared land of the public domain, by virtue of judicial proceedings instituted within the forty years next preceding the approval of this Act, are hereby granted the right within five years after the date on which this Act shall take effect, to petition for reopening of the judicial proceedings under the provisions of Act Numbered Twenty-two hundred and fifty-nine, as amended, only with respect to such of said parcels of land as have not been alienated, reserved, leased, granted, or otherwise provisionally or permanently disposed of by the Government, and the competent

Court of First Instance, upon receiving such petition, shall notify the Government, through the Solicitor General, and if after hearing the parties, said court shall find that all conditions herein established have been complied with, and that all taxes, interests and penalties thereof have been paid from the time when land tax should have been collected until the day when the motion is presented, it shall order said judicial proceedings reopened as if no action has been taken on such parcels." (*Italics supplied*)

This period has been extended by Republic Act 2061 up to December 31, 1968, after which there had been no further extension.

Thus, respondent Judge was without jurisdiction to set aside the cadastral decision, dated October 31, 1940, declaring Lot No. 5463 as public land. The aforesaid decision is *res judicata*.

ACCORDINGLY, the decision, dated September 26, 1972, of respondent Judge is hereby SET ASIDE and declared null and void. With costs against private respondent.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Vasquez and Gutierrez, Jr., JJ., concur.

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