

JULIANA ZAPATA, APPLICANT AND APPELLEE, VS. DIRECTOR OF LANDS, OPPONENT AND APPELLANT.*G. R. No. L-17645. October 30, 1962*

Ponente: PADILLA, J.

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It appears that Juliana Zapata owns two parcels of land situated in the municipality of Santo Tomas, province of Pampanga, adjoining a non-navigable and non-floatable river called the Candalaga Creek. The two parcels are designated as Lot No. 25 and the northern part of Lot No. 16 of the Cadastral Survey of San Fernando, Pampanga.[1] The first lot contains a superficial area of 6,592 square meters and is registered in her name, as shown by transfer certificate of title No. 12907 issued by the Registrar of Deeds in and for the province of Pampanga (Exhibit A). Her ownership or title to a part of Lot No. 16 was confirmed by a decree entered on 21 November 1955 by the Court of First Instance of Pampanga ordering that the "remaining portion of Lot No. 16 with an area of 474 square meters" be registered "in the name of Juliana Zapata" (Exhibit A-1); Cad. case No. 1, G.L.R.O. Cad. Record No. 137).

In 1915, when the cadastral survey of San Fernando was begun, the width of the Candalaga Creek adjoining the two parcels of land owned by Juliana Zapata was about 90 or 100 meters. At present, the width is 15 meters, because soil had been accumulated by the water current of the river on the banks of Lot No. 25 and of that part of Lot No. 16 owned by Juliana Zapata. The accreted land is delimited in plan Psu-140515 and designated as Lots 1, 2 and 3, the first containing an area of 6,260 square meters, the second, 449 and the third, 2,238 (Exhibit B) and described in the technical descriptions (Exhibit C).

In a verified petition filed on 16 June 1956 in the Court of First Instance of Pampanga, Juliana Zapata claims that the aforesaid three lots belong to her by accretion, as provided for in article 457 of the Civil Code, and prays that the same be registered in her name under the Land Registration Act (Land Reg. Case No. N-273, L.R.C. rec. No. 1167). On 19 October 1956 on her motion the court entered an order of general default against all persons except the Director of Lands. On 24 October 1956 the Director of Lands objected to the petition and prayed that the registration of the three lots in the name of Juliana Zapata be denied and that they be declared to form part of the public domain.

After trial, on 26 December 1956 the court rendered judgment, as follows:

WHEREFORE, the Court, overruling the opposition of the Director of Lands; and confirming the order of general default herein entered, and the applicant's title to the aforesaid Lots Nos. 1, 2 and 3, referred to plan Psu-140515, aforesaid, hereby orders that the same be registered in the name of Juliana Zapata, the herein applicant * * *. Once this decision becomes final, let the corresponding decree issue.

The Court of Appeals certified to this Court the appeal taken by the Director of Lands because only questions of law are involved.

The appellant contends that article 457 of the Civil Code providing that—

To the owners of lands adjoining the banks of river belong the accretion which they gradually receive from the effects of the current of the waters.

cannot apply and does not support the appellee's claim that the accretion or deposit of alluvial soil, which is delimited in plan Psu-140515 and designated as Lots 1, 2 and 3, belongs to her as riparian owner, because such accretion "was not due to the natural effect of the current but was artificially induced on account of the erection of the fish traps on the creek." The contention cannot be sustained. The appellant does not dispute that the accreted land delimited in plan Psu-140515 and designated as Lots 1, 2 and 3 adjoining Lot No. 25 and that part of Lot No. 16, both owned by the appellee, had been formed gradually due to the effect of the water current of the Candalaga Creek, but claims that the accretion was artificially brought about by the setting up of fish traps, such as salag net, bunuan (bamboo trap), sabat (cutting of channels) and fencing that the fishermen had built in the stream. True, those fish traps might have slowed down the current of the Candalaga Creek and might have brought about or caused the accretion, but as there is no evidence to show that the setting up or erection of the fish traps was expressly intended or designed to cause or bring about the accretion, the appellee may still invoke the benefit of the provisions of article 457 of the Civil Code to support her claim of title thereto. Moreover, the fishermen who since 1894 used to set up fish traps in the creek (p. 7, t.s.n.), later on secured permit from the Government that auctioned off the right or license to set up fish traps in the creek (p. 6, t.s.n.), and the setting up of such fish traps stopped or was discontinued even before 1926 (p. 7, t.s.n.), all go to show that the alluvial accretion was not entirely due to the setting up of such fish traps.

The decree appealed from is affirmed, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1] In 1915 the municipality of Santo Tomas formed part of San Fernando, Pampanga and in 1952 was separated therefrom.

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