

ANGIN CANDO, ET AL., PETITIONERS-APPELLANTS, VS. BUREAU OF LANDS, ET AL., OPPOSITORS-APPELLEES.*G.R. No. L-3948. August 18, 1952*

Ponente: BAUTISTA ANGELO, J.

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This is an application for the registration of a parcel of land consisting of 47 hectares, 17 ares and 42 centares filed by the appellants in the Court of First Instance of Baguio. The application was opposed by the Director of Lands and by the city of Baguio in the ground that the land applied for forms part of the public domain and is inside the Baguio townsite which was declared public land in a decision rendered by the same court on November 13, 1922, in G.L.R.O. Record No. 211. After the hearing of the case, at which the applicants and the oppositors presented their respective evidence, the court rendered decision denying the application. The applicants brought the case before this Court making the following assignment of errors:

"I. The court a quo erred in holding that the land applied for is not all cultivated.

II. The lower court erred in holding that Wakat Suello lost his right to the land in question for failure to apply in due time for the reservation of his right, there being no evidence, oral or documentary, and the notice required by Act 926 was served personally to him.

III. The lower court erred in not ordering the registration of the land in question in the name of the appellants."

In their brief, appellants claim that their predecessors in interest had been in open, public and adverse possession as owners of the land in question continuously since the year 1995 up to the present; that during all the time, they have been living in the land, have used a greater portion thereof as pasture for their cattle, and have cultivated and planted the other portions to camote, corn and fruit-bearing trees; and that in order that their cattle could not go out and the cattle of other persons could not go inside the land, wooden fences and stone walls were built on such parts of the boundary lines where animals could pass through, where as the poriton cultivated and planted was surrounded with carthon and wooden fences so that the animals could not ente and destroy the plants.

The Government, on the other hand, contends that "there is no clear evidence to show that all the lands applied for had been possessed by applicants and their predecessors in interest, publicly, continuously and under a bona fide ownership since July 26, 1894 up to the present. All that the applicants had possessed if at all are sixteen (16) hectares only, and even that, there is no clear evidence when the said possession started."

It is not disputed that the land applied for is inside the Baguio Townsite Reservation, which was declared public land in G.L.R.O. Record NO. 211, and under section 3, of Act No. 627, a claim for private land within the servation must be filed within six months from notice which shall be served personally by the Clerk of Court upon the claimant. Appellants claim that they have never been notified by the Clerk of Court of the petition for the reservation of the lands covered by the Baguio townsite. The government on the other hand claims that the applicants' predecessors in interest were in fact notified of the registration proceedings, and, therefore, are now barred from claiming the land in question as their private property.

It appearing that the questions involved in this appeal are both of fact and law, this case should be remanded, as it is hereby remanded, to the Court of Appeals, under the provisions of section 31, of Republic Act No. 296.

Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Labrador, JJ., concur.

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