

HEIRS OF PELAGIO ZARA: PIO, CLEMENTE, SERAFIA, PORFIRIO, AND ESTEBAN, ALL SURNAMED MINDANAO; MARIA AND GLICERIA, BOTH SURNAMED SEDARIA; DULCE CORDERO, VICTORIA DE LOS REYES AND ...

G.R. No. L-19535. July 10, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal from an order of the Court Of First Instance of Batangas (Lipa City) dismissing appellants' "application for registration of the parcel of land consisting of 107 hectares, more or less, situated in the barrio of Sampiro, Municipality of San Juan, Province of Batangas, and designated in amended plan PSU-103696 as Lot A."

The proceedings in the court a quo are not disputed. On August 4, 1960 appellants filed an application for registration of the land above described pursuant to the provisions of Act 496. They alleged that the land had been inherited by them from their grandfather, Pelagio Zara, who in turn acquired the same under a Spanish grant known as "Composicion de Terrenos Realengos" issued in 1888. Alternatively, should the provisions of the Land Registration Act be not applicable, applicants invoke the benefits of the provisions of Chapter VIII, Section 48, subsection (b) of C.A. 141 as amended, on the ground that they and their predecessor-in-interest had been in continuous and adverse possession of the land in concept of owner for more than 30 years immediately preceding the application.

Oppositions were filed by the Director of Lands, the Director of Forestry and by Vicente V. de Villa, Jr.

The latter's opposition recites:

"... that the parcel of land sought to be registered by the applicants consisting of 107 hectares, more or less, was included in the area of the parcel of land applied for registration by Vicente S. de Villa Sr. in Civil Case No. 26, L.R. Case No. 601 in this Court, which was decided by this same Court through the then incumbent Judge, the Honorable Juan P. Enriquez, on September 30, 1949; that the parcel sought to be registered by the applicants was declared public land in said decision; that they (the oppositors Vicente V. de Villa Jr. and Vicente S. de Villa Sr.) have an interest over the land in question because for a period of more than sixty (60) years, the de Villas have been in possession, and which possession, according to them, was open, continuous, notorious and under the claim of ownership; that the proceeding being in rem, the failure of the applicants to appear at the case No. 26, L.R. Case No. 601 to prove their imperfect and incomplete title over the property, barred them from raising the same issue in another case; and that as far as the decision in Civil Case No. 26, L.R. Case No. 601 which was affirmed in the appellate court in CA-G.R. No. 5847-R is concerned, there is already 'res-adjudicata' in other words, the cause of action of the applicant is now barred by prior judgment; and that this Court has no more jurisdiction over the subject matter, the decision of the Court in said case having transferred to the Director of lands."

On November 15, 1960 the de Villas (de Villa, Sr. was subsequently included as oppositor) filed a motion to

dismiss, invoking the same grounds alleged in its opposition, but principally the fact that the land applied for had already been declared public land by the judgment in the former registration case.

The trial court, over the objection of the applicants, granted the motion to dismiss by order dated January 27, 1961, holding, *inter alia*, that "once a parcel of land is declared or adjudged public land by the court having jurisdiction . . . it cannot be the subject anymore of another land registration proceeding, . . . (that) it is only the Director of Lands who can dispose of the same by sale, by lease, by free patent or by homestead."

In the present appeal from the order of dismissal neither the Director of Lands nor the Director of Forestry filed a brief as appellee. The decisive issue posed by applicants-appellants is whether the 1949 judgment in the previous case, denying the application of Vicente S. de Villa, Sr., and declaring the 107 hectares in question to be public land, precludes a subsequent application by an alleged possessor for judicial confirmation of title on the basis of continuous possession for at least thirty years, pursuant to Section 48, subsection (b) of the Public Land Law, C.A. 141, as amended. This provision reads as follows:

"The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

". . .

"(b) Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this Chapter."

The right to file an application under the foregoing provision has been extended by Republic Act No. 2061 to December 31, 1968.

It should be noted that appellants' application is in the alternative: for registration of their title of ownership under Act 496 or for judicial confirmation of their "imperfect" title or claim based on adverse and continuous possession for at least thirty years. It may be that although they were not actual parties in that previous case the judgment therein is a bar to their claim as owners under the first alternative, since the proceeding was in rem, of which they and their predecessor had constructive notice by publication. Even so this is a defense that properly pertains to the Government, in view of the fact that the judgment declared the land in question to be public land. In any case, appellants' imperfect possessory title was not disturbed or foreclosed by such declaration, for precisely the proceeding contemplated in the aforecited provision of Commonwealth Act 141 presupposes that the land is public. The basis of the decree of judicial confirmation authorized therein is not that the land is already privately owned and hence no longer part of the public domain, but rather that by reason of the claimant's possession for thirty years he is conclusively presumed to have performed all the conditions essential to a Government grant.

On the question of whether or not the private oppositors-appellees have the necessary personality to file an opposition, we find in their favor, considering that they also claim to be in possession of the land, and have furthermore applied for its purchase from the Bureau of Lands.

WHEREFORE, the order appealed from is set aside and the case is remanded to the Court *a quo* for trial and judgment on the merits, with costs against the private oppositors-appellees.

Reyes, JBL, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Order of dismissal set aside.

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