

**JOSEFA VDA. DE SANTOS, ET AL., APPLICANTS AND APPELLANTS, VS. ANDRES J. DIAZ, OPPOSITOR AND APPELLEE.***G.R. No. L-19336. December 28, 1964*

Ponente: CONCEPCION, J.

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Applicants Josefa Vda. de Santos and her children, Jose, Lydia, Pura and Paterno, all surnamed Santos, seek the reversal of an order of the Court of First Instance of Rizal (Pasig Branch) dismissing their petition for registration in the case at bar, upon the ground of *res judicata* and estoppel. The case is before us on appeal involving as it does, no questions of fact.

It is conceded that, on March 6, 1928, Mamerto Santos, deceased husband of appellant Josefa Vda. de Santos, and father of her co-appellants, applied, with the court of First Instance of Rizal (Case No. 709 thereof, G.L.R.O. Record No. 31555), for the registration, under Act No. 496, of several parcels of land, situated in the municipality of Las Piñas, Province of Rizal; that on December 29, 1929, said application was dismissed owing to the applicant's failure to comply with an order of said court requiring the amendment of a (survey) plan of said land; that, subsequently, the date of which does not appear in the records, the widow and children of said Mamerto Santos—who died on November 3, 1942—namely, the (herein appellants, filed another petition for registration of said lands under said Act No. 496 (L.R.C. No. N-1809, L.R.C. Record No. N-11980); that on January 5, 1959, the same court dismissed the application for insufficiency of evidence; and that a little over a year later, or on August 4, 1960, appellants commenced this case for the registration of the lands aforementioned.

On December 15, 1960, herein appellee, Andres J. Diaz opposed said application as regards Lots Nos. 2, 3 and 4 of Psu 25909, upon the ground that these lots belong to him in fee simple, and prayed that appellants' application, as regards the same, be denied, that appellee's title thereto be approved and confirmed, and that said lots be brought under the operation of the Land Registration Act. In due course, thereafter, the lower court issued on September 8, 1961, the appealed order, which appellants now seek to be reversed. The issue in this appeal is whether the orders of dismissal in the two (2) previous registration cases bar the present proceedings under the principle of *res judicata*.

Under Act No. 406, before its amendment by Act No. 3621, courts in ordinary registration cases had no authority therein except to render judgment for the applicant or dismiss the application for registration. The court could not grant an affirmative relief to the oppositor, even if he succeeded in proving his title in and to the land applied for. (Tacson vs. Corporacion de los PP. Dominicos, 19 Phil. 79; City of Manila vs. Lack, 19 Phil. 324; Roman Catholic Archbishop of Manila vs. Director of Lands, 35 Phil. 339; Aquino vs. Director of Lands, 39 Phil. 851; Baltazar vs. Insular Government, 40 Phil. 267; Repollo vs. Balecha, 59 Phil. 308.)

As a consequence, it was held that the parties in said proceedings are not legal adversaries in the true sense, because no contentious issue is made between them, and the dismissal of the proceedings cannot operate as *res judicata* against the unsuccessful applicant (Henson vs. Director of Lands, 37 Phil. 912). This Court even declared

that the dismissal of an application for registration did not bar a second application, even though the first was not dismissed without prejudice, for the court had no power to make a prejudicial dismissal (*Henson vs. Director of lands, supra*). What is more, said dismissal did not entitle the oppositor (who was maintained in his possession by the court) to have the property in question entered in the registry as belonging to him (*Archbishop of Manila vs. Director of Lands, supra*).

This, notwithstanding, the findings of fact made in former decisions in land registration cases, denying registration of the land involved therein, are generally entitled to some credit and may be taken into consideration in subsequent litigations over the same land, between the same parties or their successors in interest (*Cruz vs. Cruz, 47 Phil. 10*). Upon the other hand, although the unsuccessful party in a land registration case may institute another one, to be successful in his next attempt he must show either that the court clearly erred in the first case, or that the obstacles to the registration therein have been removed. (*Ongsiako vs. Magsilang, 50 Phil. 380*).

A different rule obtains in registration cases filed under the provisions of the Public Land Law, for the judicial legalization of an incomplete and imperfect title (Chapter VIII of Act 2874, now Chapter VII Com. Act 141), or in compulsory registration cases under the Cadastral Act (No. 2259), in which title may be adjudicated (76 C.J.S. Section 17, p. 541). In such cases, an order dismissing an application for registration and declaring the land part of the public domain constitutes *res judicata*, not only against the adverse claimant, but, also, against all persons (*Aquino vs. Director of Lands, supra*; *Lopez vs. Director of Lands, 48 Phil. 589*; *De la Rosa vs. Director of Lands G. R. No. L-8311, February 28, 1955*; *Navarro vs. Director of Lands, G. R. No. L-18814, July 31, 1962*).

Referring to proceedings under Act No. 496, its amendatory law (Section 2, Act 3621, effective December 5, 1929) allows the oppositor to set forth the interest claimed by (him and to apply for the remedy desired (Section 34, Act No. 496, as amended by Section 1, of Act No. 3621), and empowers the court to determine the conflicting interests of the applicant and the adverse claimant (Section 37, Act No. 496, as amended by Section 2, Act No. 3621). If there is no adverse claimant, and the court finds that the applicant has no proper title for registration, a decree shall be entered dismissing the application, which decree may be ordered to be without prejudice. If there is an adverse claimant, "the court shall determine the conflicting interests of the applicant and the adverse claimant, and x x x shall dismiss the application if neither of them succeeds in showing that he has proper title for registration x x x".

It is obvious, that if the decree dismissing the application stated that it is "without prejudice", no conclusive adjudication is made, in the sense of barring another application for registration by the same party. But, even if the order of dismissal were not so qualified, it does not follow necessarily that the order constitutes *res judicata*. This is particularly true in a situation like the one at bar, for no opposition was filed in the previous registration cases, and the first was 'dismissed without a hearing and the second for insufficiency of evidence. No contentious issue essential to the application of the principle of *res judicata* existed, therefore, in said proceedings. Moreover, the dismissal of the second case, predicated as it was upon the insufficiency of evidence, meant no more than this. The order did not entail, either expressly or by necessary implication, a determination of the question whether or not the lands involved in the case belong to the applicants (*Maloles and Malvar vs. Director of Lands, 25 Phil. 548*; *Ongsiako vs. Magsilang, supra*; *Aquino vs. Director of Lands, supra*; *Archbishop of Manila vs. Director of Lands, supra*).

In the language of Mr. Justice Street, speaking for this Court in *Henson vs. Director of Lands*:

"We are not insensible of the fact that weighty considerations may be adduced in favor of the proposition that a matter once litigated should not again be drawn in question between the same parties. *Interest rei publicae ut finis sit litium*. This saying is undoubtedly well supported by experience, and no judicial tribunal will lightly ignore its precept. It is believed, however, that when reference is had to the purposes and practical application

of the Land Registration Act, considerations of public interest will be found largely to preponderate in favor of the doctrine announced in this decision. To hold that a decree dismissing an application for the registration of a parcel of land precludes the applicant and his successors in interest from ever afterwards renewing the application, if the party who opposed the original proceeding or his successors see fit to make further objection, would lead to consequences much impaling the usefulness of the system of registration created by said Act.

"In passing upon applications of this character the courts are constantly compelled to deny the registration of title which are comparatively good though technically imperfect; and it is important that as defects are cured by the effluxion of time or discovery of new evidence, the owners, usually the persons in possession, should again present their titles for registration. Rare abuses may possibly occur, and sometimes a disappointed litigant, not having possession, may maliciously harass the occupant of a coveted parcel of ground. This inconvenience, or danger, in our opinion by no means offsets the beneficial results to be attained by encouraging owners to bring their land under the operation of the land registration law with all convenient dispatch. Of course no one could question the right of a person to renew his application upon acquiring a new title; and we now hold that the application can be renewed notwithstanding the applicant stands upon the same title that was previously rejected.

"If the case should occur where a person in possession finds himself unreasonably molested, he will sometimes be able, to meet the difficulty by filing an application for the registration of the land in his own name; and where this is not practicable, relief might possibly be found in an injunction against repeated vexation.

"From what has been said it is apparent that the court below was in error in sustaining the motion of the opponents to dismiss the application and in refusing to determine the case on its merits."

WHEREFORE, the order appealed from should be, as it is hereby set aside and the case remanded to the lower court for further proceedings, with the costs of this instance against appellee, Andres J. Diaz.

**IT IS SO ORDERED.**

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Barrera, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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