

MARIA GUERRERO, APPLICANT AND APPELLANT, VS. THE DIRECTOR OF LANDS, OPPOSITOR AND APPELLANT.

G.R. No. L-4371. August 27, 1953

Ponente: PARAS, C.J.

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PARAS, C.J.:

On March 10, 1941, Maria Guerrero filed an application in the Court of First Instance of Nueva Ecija for the registration of a parcel of land situated in barrio Macapsing, Rizal, Nueva Ecija, now identified as lot No. 2765. The Director of Lands opposed the application on the ground that the lot is part of the public domain. The parties stipulated that the lot was formerly a part of the bed of the Pampanga River which changed its course after the year 1937, and that Maria Guerrero owns adjacent lot No. 1725. The trial judge, in his decision dated October 15, 1948, held that Maria Guerrero, as a riparian owner, has acquired ownership of the portion of lot No. 2765 bordering on her lot No. 1725 pursuant to article 370 of the old Civil Code. But as said portion was not delimited in the plan and the technical description, her application was dismissed without prejudice to the filing of an amended application covering only the portion pertaining to her. Both the applicant and the oppositor have appealed. The applicant, however, failed to file her brief as a result of which her appeal was dismissed.

The oppositor contends that the lot applied for by Maria Guerrero was declared a part of the public domain in the decision of the Court of First Instance of Nueva Ecija in cadastral case No. 283, wherein it was held that "Las carreteras caminos, calles, callejones, cauces de agua, canales de regadio y otras partidas de terreno no enumerados como lotes, situadas dentro del perimetro de la masa total de terreno objeto de este expediente, se declaran terrenos de dominio publico, y por tanto, propiedad del Gobierno de las Islas Filipinas."

This contention is untenable, since, as pointed out by the trial judge, the decision was promulgated on December 26, 1923, long before the Pampanga River changed its course in or after 1937. Obviously, the questioned lot was then still a part of the river bed and therefore public, regardless of said decision. On the other hand, after the river had changed its course, the former bed has to belong to the riparian owners by virtue of article 370 of the Civil Code which provides as follows: "Beds of rivers abandoned because of a natural change in the course of the water belong to the owners of the lands bordering thereon throughout their respective extents. If the abandoned bed divided estates belonging to different owners, the new dividing line shall be equidistant from the former boundaries."

The decision in the case of *Panlilio vs. Mercado* (44 Phil., 695), cited by the oppositor in support of the argument that there has been no indication on the part of the Government to abandon the lot in question as part of the former bed of the Pampanga River, is not controlling, because in said case there was a showing that the Government, as soon as practicable, took steps to bring back the old course of the river. In the case at bar there is no pretense that the Government ever intended to pursue a similar step.

It is also urged for the oppositor that article 370 is not applicable to the present case, as lot No. 1725 was acquired by Maria Guerrero by virtue of a homestead patent, and said grant cannot be increased except in the manner

provided for in the Public Land Act. This is clearly without merit, because after Guerrero's title to lot No. 1725 had become absolute, the land ceased to be public and became one of private ownership entitled to all the benefits granted by law.

Wherefore, the appealed order is affirmed, and it is so ordered without costs.

Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

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