

**THE DIRECTOR OF LANDS AND HEIRS OF THE DECEASED
HOMESTEADERS, NAMELY, IGNACIO BANGUG, PASCUAL BANGUG,
EUSEBIO GUMIRAN, SANTIAGO AGGABAO AND ANTONIO DERAY,
PETITIONERS-APPELLANTS...**

G.R. No. L-25723. June 29, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This is a land registration case involving 128 hectares of land located in Cabagan, Isabela. On page 125 of the *Gaceta de Manila* dated January 30, 1884, it was published that the land applied for by Bruno Cabanatan (sic) "en la jurisdiccion de Cabagan de la de Isabela de Luzon" was declared "enagenables" (Exh. P).

On page 142 of the *Gaceta de Manila* dated August 2, 1885, this entry was published: "Adjudicando a x x x D. Bruno Cabanatan (sic) la extension de 138 hectareas, 91 areas y 50 centiareas de terreno situado en el pueblo de Cabagan, en Isabela de Luzon, en la cantidad de pfs. 188'71, 6/8" (Exh. Q. The name is "Cabauatan" in Exh. M).

"Bruno Cabanatan" of Cabagan, Isabela appears as No. 322 in a handwritten list of "Expedientes Remitidos a Terrenos Publicos" (terminated cases) dated November 30, 1901 in the files of the Division of Archives (Exh. L and O).

However, the applicants have not produced in evidence any composition title, the basis of their application. It was allegedly burned in the house of Pepe Buraga during the war (34 tsn June 26, 1956). So, we do not know the boundaries of the 138-hectare land allegedly adjudicated to Bruno Cabanatan, granting that he was the same as Bruno Cabauatan, the ancestor of the applicants; in what barrio or sitio of Cabagan it is located; why in 1932 the 138 hectares had been increased to 154 hectares, and why in 1921 the same land was declared for tax purposes in the name of Honofre Cabauatan, Bruno's nephew, and not in the names of Bruno's heirs.

As correctly contended by the Solicitor General, the land applied for must be identified. The claim of possession or having a composition title is inutile if the land is not identified.

Bruno died during the Spanish regime. The year when he died is not known. He is survived by seven children with the following descendants:

1. Candida, survived by Lucio Guingab and Jose Buraga.
2. Paulina, survived by Maria, Jose, Gregorio and Epifania, surnamed Samus (children of the first marriage) and by Eugenia and Vicente Uanan, children of her second marriage.
3. Francisco, survived by Manuel, Faustina, Juan and Remedios.
4. Bruno 2nd, survived by Purisima, Francisco, Cristeta, Benjamin and Respicio.
5. Salvador, survived by Paz, Lucio, Lourdes and Pilar, who is dead and is in turn survived by her children

Celso Mesa and Ruben Mesa.

6. Heculina, survived by Faustino, Maria, Alejandra, Genoveva, Amada and Francisco, all sur-named Cauan. Genoveva Cauan is dead and is survived by her child, Josefina Balmaceda.

7. Guillermo, survived by his son, Pedro Cabauatan.

Bruno had a brother named Leon, who had a son named Honofre (Onofre) who, curiously enough, obtained in 1921 a tax declaration for the 138 hectares assessed at P5,200. In that tax declaration, it was stated that the land is located at Malasi, Cabagan, bounded on the north, east and south by public land (P.D.) and on the west by a mountain. How Onofre came to have a tax declaration for that land has not been adequately explained.

Emilio Cabauatan, a son of Onofre, in his opposition and testimony claimed that lawyer Miguel Binag, in behalf of Bruno's heirs, in 1937 proposed to use the said declaration in the land registration proceeding. He promised to give the heirs of Onofre Cabauatan one-third of the land. However, lawyer Binag denied that he ever made such a proposition.

Emilio also claimed that the land of Bruno is in Sitio Malini, three kilometers from Sitio Malasi. The trial court and Binag denied that there was a sitio in Cabagan called Malini. It was not found in the list of sitios in the governor's office.

On March 5, 1934 Judge Mariano Rosauro issued Decree No. 536561 for the registration of a parcel of land, plan Psu 95520, with an area of 25 hectares located at the "sitio of Malisi, Barrio of Aggub," Cabagan. It was registered in the names of the following heirs of Bruno as proindiviso co-owners without regard to the right of representation (Exh. J):

1. Candida Cabauatan 16. Rufina Cabauatan
2. Maria Samus 17. Paz Cabauatan
3. Jose Samus 18. Lucio Cabauatan
4. Gregorio Samus 19. Lourdes Cabauatan
5. Epifanio Samus 20. Celso Mesa
6. Eugenia Uanan 21. Ruben Mesa
7. Vicente Uanan 22. Faustino Cauan
8. Manuel Cabauatan 23. Maria Cauan
9. Faustino Cabauatan 24. Alejandra Cauan
10. Juan Cabauatan 25. Genoveva Cauan
11. Remedios Cabauatan 26. Amada Cauan
12. Purisima Cabauatan 27. Francisco Cauan
13. Francisco Cabauatan 28. Josefina Balmaceda
14. Cristeta Cabauatan and
15. Benjamin Cabauatan 29. Pedro Cabauatan

The 25 hectares land already registered has as boundaries parts of the land under controversy. Thus, the decree

states that the 25 hectares are bounded on the northeast and south by public lands; on the east by property of Tomas Vinarao vs. heirs of Bruno Cabauatan; on the west by property of Lucas Pagulayan vs. heirs of Bruno Cabauatan and on the northwest by the Lagoon Malasi Grande and public land.

It may be asked: why did not that 1934 registration case embrace the whole 138 hectares allegedly covered by Bruno's composition title and why did Bruno's heirs have to resort to a second or another registration case in 1937? The applicants have not offered any satisfactory explanation.

In 1934, the year the 25 hectares of land located at Malasi, Cabagan, was registered in the names of Bruno's heirs, they produced a survey plan, Psu-95458, for his land which had an area of 154 hectares, much larger than the 138 hectares, adjudicated to Bruno in 1885. Clearly, the area was inflated by 16 hectares. The land consisted of seven contiguous lots located in Barrio Aggub, Cabagan. It included the 25 hectares of plan Psu-95520 which was already registered and which was designated as Lot No. 6.

The plan was based on a 1932 survey. The surveyor in 1934 indicated in the plan Psu-95458 the following claimants of the seven lots (Exh. F):

Lot No. 1 Claimed by Pascual Bangug.

Lot No. 2 Claimed by Heirs of Antonio Deray.

Lot No. 3 Claimed by Heirs of Ignacio Bangug.

Lot No. 4 Claimed by Eusebio Gumiran.

Lot No. 5 Uncultivated.

Lot No. 6 Claimed by Ramon Guingab (already registered).

Lot No. 7 Claimed by Vicente Ramos and Casiano Mabbayad.

The provincial fiscal, in representation of the Director of Lands, alleged in his opposition that the land claimed by Bruno's heirs was covered by the approved and subsisting homestead applications of (1) Santiago Aggabao, deceased, now heirs represented by Simplicio Aggabao; (2) Ignacio Bangug, deceased, now his heirs represented by Anacleto Bangug; (3) Eusebio Gumiran, deceased, now his heirs represented by Luis Gumiran; (4) Antonio Deray, deceased, now his heirs represented by Pablo Deray; (5) Casiano Mabbayad, transferor, now Rodolfo Albano, transferee, and (6) Gaudencio Flores (p. 23, RA).

As already stated, the instant second registration case was filed in 1937 based on an expanded survey. The applicants are the very same heirs of Bruno who were the applicants in the first registration case.

They claim the land without taking into account the rule on representation. The record does not disclose why the case was not finished before liberation. The trial commenced in 1956 or almost twenty years after the application was filed. That is an unusual feature of the case.

Evidence for the applicants, Bruno's heirs. - From the testimonies of Candida Cabauatan, Jose Buraga, Gabriel Zipagan and Placido Angoluan, the trial court found that the land in question (128.8 plus 25.4 or 154 hectares) was administered by Bruno's son, Salvador. There were allegedly forty tenants during the Spanish regime working in the middle portion of the land.

Some of the tenants were still on the land during the American regime. They have been cultivating the land under the overseers, Zipagan and Angoluan. During the Spanish regime, Bruno's children received 1/3 of the products, such as corn and palay, as the owner's share. The tenants also planted kapok, acacia trees and some oranges.

They allegedly constructed rice paddies and built dwelling houses. Bruno's heirs have possessed the land openly, peacefully, continuously and in the concept of owner since the Spanish regime up to the present time.

In 1916, about 50 hectares of the land were under cultivation, the greater portion of which is included in Lot No. 6, which, as already mentioned, was registered in 1934 in the names of Bruno's heirs, the same applicants in this 1937 case. The land taxes were paid since 1921 in the name of Honofre, not an heir of Bruno.

Evidence for the Director of Lands and homesteaders. - As oppositor, the Director of Lands presented the following documentary evidence:

- (1) The 1924 homestead application of Eusebio Gumiran and his intention to make final proof dated July 22, 1930 for 24 hectares of land located at Sitio Malasi, Barrio Aggub, Cabagan (Exh. 1-3).
- (2) The order dated August 28, 1931 for the issuance of a patent to Pascual Bangug for 24 hectares covered by his 1911 application (Exh. 5 and 6-DL).
- (3) The approval dated November 23, 1931 of Ignacio Bangug's homestead application for 10 hectares (Exh. 7 and 8-DL).
- (4) The approval dated March 23, 1932 of Casiano Mabbayad's homestead application for 24 hectares (Exh. 10 and 11-DL).
- (5) The approval dated August 12, 1950 of Gaudencio Flores' homestead application for 24 hectares (Exh. 12 and 13-DL).
- (6) The approval dated August 24, 1932 of Santiago Aggabao's 1926 homestead application for 24 hectares (Exh. 14 and 16-DL).
- (7) The approval dated May 15, 1928 of Antonio Deray's homestead application for 24 hectares (Exh. 17-DL).

As noted by the Solicitor General, the Court of Appeals failed to mention in its decision the evidence for the homesteaders. The following is a summary of that evidence by the Solicitor General and the trial court.

Ignacio Bangug in 1917 occupied about ten hectares of the land in Sitio Malasi. He planted it to rice, corn, tobacco and beans. He applied in 1926 for a homestead over that parcel of land (Exh. 11). He paid the land taxes as early as 1922 (Exh. 1 to 10). His application was approved in 1931. After his death in 1931, his son Jose continued to occupy the homestead. Jose Bangug did not know that the land was included in the survey made for Bruno's heirs.

Pascual Bangug, who died in 1950, had cultivated a portion of the disputed land since 1910 and in 1911 he filed his homestead application (Exh. F). He declared it for tax purposes and paid the land taxes since 1916 (Exh. 2 to 24). The homestead patent was issued in 1931 (Exh. 25). He built his house on the land. His heirs continued his possession after his death. Pascual planted the land to rice, corn, mongo, peanuts, oranges, lemon, acacia and bamboos.

Eusebio Gumiran occupied in 1924 a portion of Lots Nos. 4 and 5 (Exh. K). He filed his homestead application in that same year. He planted the land to rice and other staple crops. He made a final proof in 1930. After his death in 1942, his children and widow continued to possess the homestead.

Santiago Aggabao started occupying the land in Sitio Malasi in 1927. It has an area of 24 hectares. His homestead application was approved in 1932 (Exh. 16). His children have possessed the homestead after his death. They planted it to rice, corn and vegetables.

Antonio Deray filed in 1924 his homestead application for 24 hectares in what is now Lot No. 2 of the survey

plan. It was approved in 1928 (Exh. 17 and 18-DL). His heirs have been in possession of the homestead.

Gaudencio Flores and the heirs of Honofre Cabauatan also presented evidence as oppositors but they did not appeal to this Court.

Ruling. - The trial court granted the application for registration of the six lots with an area of 128 hectares, in addition to the oft-mentioned 25 hectares already registered. It reasoned out that if Bruno's heirs had possession of the said 25 hectares, they could be deemed to have "constructive possession" of the remaining part of the land provided that the same is not in the adverse possession of another person (Ramos vs. Director of Lands, 39 Phil. 175).

We hold that the rule on constructive possession does not apply to this case because the major portion of the disputed 128 hectares has been in the adverse possession of homesteaders and their heirs and is still part of the public domain until the patents are issued.

The area claimed is in excess of that mentioned in the composition title. The alleged lost composition title cannot be given any probative value. Its contents were not proven by secondary evidence. The precise location of the land and the possession thereof were not proven by the applicants. The alleged possession of Bruno's heirs may refer to the 25 hectares already registered in their names. Inexplicably, the registration of the 154 hectares was made in two installments.

WHEREFORE, the decisions of the Court of Appeals and the trial court are reversed and set aside. The application for registration is dismissed. The Director of Lands should issue to appellant heirs of the deceased homesteaders their patents in accordance with the Public Land Law. Costs against the applicants.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Escolin, and Cuevas, JJ., concur.

Abad Santos, J., no part.

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