

MABUHAY DEVELOPMENT COMPANY, PETITIONER, VS. REMIGIO RONQUILLO, DEVELOPMENT BANK OF THE PHILIPPINES, THE REGISTER OF DEEDS OF TARLAC AND THE NATIONAL TREASURER, RESPONDENTS.

G.R. Nos. L-24705 & L-24706. April 29, 1971

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari from a joint decision of the Court of Appeals in (a) CA-G.R. 28395-R entitled Mabuhay Development Company, plaintiff-appellant vs. Remigio Ronquillo, et al., defendants-appellees (now G.R. L-24705), and (b) CA-G.R. 28396-R entitled Mabuhay Development Company, plaintiff-appellant vs. Remigio Ronquillo, et al., defendants-appellees (now G.R. L-24706).

As the findings of fact of the Court of Appeals are now beyond review, we quote them as follows:

"Trinidad H. Pardo de Tavera was the primitive owner of a mass of land known as "Hacienda Mababanaba," located in the barrios of Burgos, Mababanaba and Villa Aglipay, Tarlac, Tarlac. According to original certificate of title No. 31, issued to Tavera way back on September 14, 1908, which title was based on an old magnetic survey, the land had an area of 683.4739 hectares.

On September 3, 1920, Tavera sold the land to Segundo Dizon and as a consequence original certificate of title No. 31 was cancelled and transfer certificate of title No. 359 was issued to the vendee on September 14, 1920.

Sometime in 1921, the land, then known as "Hacienda Dizon," became the subject of several civil cases filed by Segundo Dizon. The cause of said cases was the absence of fixed boundaries of the hacienda. In connection with the cases aforesaid, the court appointed a commission of three surveyors to relocate the lines of the hacienda. The surveyors reported that it was impracticable and well-nigh impossible to re-locate the hacienda because "the starting point called for in the plan of the Hacienda as 'Buntoc Damulag' is such a vague point as its position cannot be fixed owing to the fact that even the surveyor who executed the mentioned plan ignores the practicability of determining it on the ground as the mountain called also by that name 'Buntoc Damulag' consists of a chain of small hills, so that upon using any hill as the initial point of the survey, unless the right one is used, the land covered by the plan may be shifted from its present position as to be farther East or farther West from where it should be were the true initial point known." (Exhs. 1-C-Gov. and 1-E-Gov., registration case 3387.) During the cadastral survey of Tarlac sometime in 1931, Wenceslao Santiago, a district land officer, reported to the Director of Lands that the district land office "cannot locate any existing corners (of the hacienda) and even the owner himself or his men cannot show any monument, hence, the delay of some public land surveys on hand." (Exh. 1-A-Gov., Id.) It was suggested that a resurvey of the hacienda be made to avoid conflict with public land applicants in possession of portions of land adjoining the hacienda. Pursuant to this suggestion, Segundo Dizon caused a resurvey of the hacienda sometime in 1933. The resurvey was undertaken by Wenceslao Santiago, who at that time was already a private land surveyor, and a plan, Rs-414-D, was prepared by him. The resurvey of Santiago was done according to modern (transit) methods, and it showed an area of 683.7638 hectares or an excess of a mere 2,899 square meters over the area stated in

the title of Tavera. Subsequently, Segundo Dizon was informed by a public land surveyor named Gatchalian that the resurvey of Santiago did not include certain portions of the hacienda. Upon this information, an additional survey was made by Gatchalian and another plan, Ps-15499, was prepared and the said survey and plan of Gatchalian showed an excess of about 34 hectares over the original area of the hacienda.

Immediately after the resurvey of Santiago but before the additional survey of Gatchalian, Segundo Dizon filed a petition in registration case No. 3387, asking the Court of First Instance of Tarlac to approve plan Rs-414-D and confirm his title over 683 hectares which was the area of the hacienda. After the execution of the additional survey of Gatchalian, Segundo Dizon amended his petition and asked the court "that the plans Rs-414-D and Psu-15499 be approved; that the correction of errors of closure in the technical description of the Transfer Certificate of Title No. 359 of the Register of Deeds of Tarlac be ordered, and that the cancellation of this transfer certificate of title be ordered and, in lieu thereof, a new one in accordance with said plans and the technical description be issued." (Exhs. B-2 and B-3). Oppositors in this case were the Director of Forestry, Director of Lands, and a number of occupants of public land adjoining the hacienda.

In another case filed with the same court by Segundo Dizon, civil case No. 4255, he asked "for the confirmation of his ownership to 79 hectares (the survey of Gatchalian showed an excess of 34 odd hectares only) alleged to be within transfer certificate of title No. 359, and for the possession thereof." (Exh. B-3.) The defendants in this civil case were, among others, Doroteo Merto and Roman Maregmen.

In registration case No. 1890, G.L.R.O. Record No. 50732, one Pedro Maregmen sought "the registration of two parcels of land, portions of which are alleged to be included in Transfer Certificate of Title No. 359 of Segundo Dizon." (Exhs. B-3 and B-4.) The Director of Lands and Segundo Dizon opposed this application.

Registration Case No. 3387, civil case No. 4255, and registration case No. 1890 were tried jointly, after which a decision was rendered on October 12, 1938, the dispositive portion of which reads thus:

"WHEREFORE, the plans of the petitioner Rs-414-D and Psu-15499, marked in the record of land case No. 3387 as Exhibits A, B and B-1-Dizon, are hereby approved, and the Register of Deeds of Tarlac is hereby ordered to cancel Transfer Certificate of Title No. 359 and to issue in lieu thereof, a new one under the same personal circumstances of the petitioner, in accordance with said plans and their technical descriptions, subject to a mortgage lien in favor of the Philippine National Bank in the sum of P45,000.

"In Civil Case No. 4255, so much of the portions of the new surveys in the possession of the defendants are hereby ordered vacated and the defendants are also ordered to deliver them to the plaintiff.

"In land Case No. 1890, G.L.R.O. Record No. 50732, the portions included in the new survey (Psu-15499) are hereby ordered excluded from the plan of the applicant Exhibit A (psu-90154) and the rest is hereby ordered registered in the name of Pedro Maregmen, 1.o, of legal age, married to Maria Mangroban, and a resident of Tarlac, Tarlac. The opposition of the Director of Lands is overruled. Once this adjudication shall have become final and amended plan submitted, duly approved by the Director of Lands, let the decree and title for said remaining portion be issued."

From this order, the Director of Lands thru the provincial fiscal appealed. The Court of Appeals, upon petition of the Solicitor General and by resolution of March 1, 1940, dismissed the appeal in registration case 3387 (CA-G.R. No. 5124) "without prejudice to the appeal interposed by said oppositor-appellant in case CA-G.R. No. 5125 (registration case 1890), Pedro Maregmen 1.o vs. Segundo Dizon et al." What happened to this latter case, the records before us do not show.

On February 24, 1941, Serapia del Rosario, Urbano Dizon and Geminiano Dizon acquired ownership of the "Hacienda Dizon" pursuant to a partial decision, and as a result T.C.T. 359 was cancelled and T.C.T. 18471 and 19936 were issued in favor of the adjudicatees.

On May 16, 1944, said adjudicatees sold the hacienda to the Mabuhay Rubber Corporation, and T.C.T. 20822 and 20823 were issued in its name. Later, the property was conveyed to the herein plaintiff, the Mabuhay Development Com-pany, and T.C.T. 16858 and 16859 were issued in its name.

Originally, during the time of Tavera, the hacienda was a single mass of land. After the cadastral survey of Tarlac in 1933, said mass was divided into 17 lots which are now parti-cularly described in the plaintiff's titles.

Heretofore, we have been reviewing the incidents that transpired before the hacienda devolved in ownership from its primitive owner to the herein plaintiff. Now, we look at the other side of the coin and see how the present defendants acquired titles over the portions claimed by them.

Among the 17 lots included in the plain-tiff's certificates of title are lots 6339, 6387 and 6554.

The record discloses that way back on January 19, 1933, one Pedro Facun Quibuyen obtained a homestead patent over two parcels of land in the vicinity of the "Hacienda Dizon" covering a total area of 16.3912 hectares, pur-suant to which O.C.T. 1244 was issued in his name. A portion of 4.5318 hectares of the said two parcels is included in the titles of the plaintiff where said portion is identified as lot 6339. The lots of Quibuyen were mortgaged by him to the Rehabilitation Finance Corpora-tion (now DBP). On October 9, 1953, said lots were acquired by the RFC on a foreclosure sale as a result of which T.C.T. 26697 was issued in its name.

On July 31, 1931, a free patent was issued to Doroteo Merto over a parcel of land with an area of 15.1704 hectares. Pursuant to said pa-tent O.C.T. 985 was issued in Merto's name. A portion of 6.1412 hectares of Merto's land is included in the plaintiff's titles where said portion is denominated as lot 6387. Merto ceded his land to Rosalina Merto who in turn sold it to the spouses Fernando Racar and Mauricia Pagaduan and Catalino Racar and Consolacion Baysa. As a result of said sale, T.C.T. 11538 was issued in the names of the two couples.

On May 11, 1933, Roman Maregmen obtained a homestead patent over a piece of land with an area of 9.9999 hectares. Based on this patent O.C.T. 1283 was issued in the name of Maregmen. A major portion of the land of Maregmen with an area of 9.7530 hectares is embraced in the plaintiff's titles where it is designated as lot 6554. On June 14, 1944, Maregmen sold his land to Re-migio Ronquillo in whose favor T.C.T. 21113 was issued.

On November 9, 1954, plaintiff decided to disentangle the maze concerning its land by fil-ing a complaint with the Court of First Instance of Tarlac, docketed as civil case 986, CA-G.R. No. 28395-R, praying that:

"1. As to the First Cause of Action, declaring T.C.T. No. 21113 (Tarlac) null and void and ordering the defendant Remigio Ronquillo to surrender said certi-ficate of title to the Registrar of Deeds of Tarlac for cancellation and to restore the Lot No. 6554 to the plaintiff;

"2. As to the Second Cause of Action, declaring as null and void O.C.T. No. 1244 (Tarlac) and ordering defendant Pedro Facun Quibuyen and/or the Rehabilitation Finance Corporation to surrender the same to the Register of Deeds of Tarlac for cancella-tion;

"3. As to the Third Cause of Action, declaring O.C.T. No. 985, T.C.T. No. 10954 and T.C.T. No. 11538 (all of the Register of Deeds of Tarlac) null and void and ordering the defendants Fernando Racar and Mauricia Pagaduan and Consolacion Baysa to deliver to the Register of Deeds of Tarlac, T.C.T. No. 11538 (Tarlac) for cancellation;

"4. With regard to the Fourth Cause of Action, ordering the Register of Deeds of Tarlac to cancel T.C.T. No. 21113, O.C.T. No. 1244, in so far as it covers Lot 6339, and T.C.T. No. 11538 (all of Tarlac) as null and void, with an injunction from further transferring and issuing subsequent certi-ficates in lieu thereof;

"5. As to the Fifth Cause of Action, ordering the National Treasurer to indemnify the plaintiff the sum of P10,000

from the Assurance Fund, as damages sustained by the plaintiff by reason of the erroneous and fraudulent registration of and issuance of certificates of titles, which are null and void, plus costs of the suit;."

The defendants Remigio Ronquillo, RFC (now DBP), Register of Deeds and National Treasurer filed their answers traversing the material allegations of the complaint. For failure to file their answers, defendants Pedro Facun Quibuyen, Fernando Racar, Mauricia Pagaduan, Catalino Racar and Consolacion Baysa were declared in default.

In civil case 1085, CA-G.R. No. 28396-R, commenced in the justice of the peace court of Tarlac, Tarlac, against Remigio Ronquillo, Alejandro Ramos and Teodoro Tipay, plaintiff prays for a decision "ordering the defendants to vacate the premises known as Lot No. 6554 of the Cadastral Survey of Tarlac, G.L.R.O. Rec. No. 1882; payment of damages in the amount of P4,000 actual damages and P1,000 as attorney's fees."

After a joint trial of the two civil cases, a decision was rendered:

"A. Declaring that the Court of First Instance of Tarlac, acting as a cadastral court, was without power and acted without jurisdiction, when, in its decision of October 12, 1938, it virtually ordered the registration of the additional area of 79 hectares in favor of Segundo Dizon, in so far as the registration affected previously registered lands as now covered by T.C.T. No. 21113, O.C.T. No. 1244, and T.C.T. No. 11538, thus hereby declaring null and void the said registration of the additional area of 79 hectares;

"B. Dismissing the plaintiff's complaint in Civil Case No. 986, which seeks to annul T.C.T. 21113, O.C.T. 1244, and T.C.T. 11538;

"C. Dismissing plaintiff's claim against the Assurance Fund in the hands of the defendant National Treasurer, in Civil Case No. 986;

"D. Dismissing the complaint in Civil Case No. 1085, which seeks to eject the defendant Remigio Ronquillo, Alejandro Ramos and Teodoro Tipay from Lot 6554 of the Cadastral Survey of Tarlac;

"E. Ordering plaintiff Mabuhay Development Company, in civil case No. 1085, to render an accounting of the produce it has been gathering in Lot 6554, owned by defendant Remigio Ronquillo, for the period that plaintiff was in unlawful possession thereof, namely, from 1944 to 1954, which accounting it shall do within thirty days after this decision shall have become final, setting the accounting for hearing with notice to the proper parties.

"F. Ordering the plaintiff to pay the costs in both cases."

From this decision the plaintiff appealed to the Court of Appeals, raising the following assignments of error in CA-G.R. 28395-R (now G.R. L-24705 before Us):

"1. The trial court erred in finding that the increases in area as a result of the resurvey Rs-414-D was 79 hectares, instead of 34, and that such increase consisted of lands outside the original hacienda.

"2. The trial court erred in finding that the order of the Court of First Instance of Tarlac dated October 12, 1938 in Reg. Case No. 1890, was null and void.

"3. The trial court erred in finding that the homestead and free patent titles of the defendants holders and/or their predecessors in interest are superior to those of the plaintiff, and in not ordering their cancellation.

"4. The trial court erred in finding that the possession of the plaintiff over the land presently titled in the name of defendant Ronquillo was unlawful for which said defendant may recover damages.

"5. The trial court erred in dismissing the liability of the Assurance Fund to the plaintiff."

and the following assignments of error in CA-G.R. 28396-R (now G.R. L-24706):

- “1. The court a quo erred in try-ing the instant case jointly with civil case No. 986, the instant case being one for forcible entry, while the other is for cancellation of cer-tificate of title.
- “2. The court a quo erred in not finding that the defendants are deforciants and in not ordering their ejectment and payment of damages to the plaintiff-appellant.
- “3. The court a quo erred in find-ing that plaintiff's possession of the lot in question was unlawful for which defendant Ronquillo may recover damages as a result thereof.”

In due time the Court of Appeals rendered the appealed joint decision, the dispositive part of which reads as fol-lows:

"WHEREFORE, the judgment appealed from is hereby affirmed insofar as it ordered the dismissal of the plaintiff's complaints in civil cases 1085 and 986 of the Court of First Instance of Tarlac and modified in the sense that the order against the plaintiff to render an accounting of the produce of lot 6554 from 1944 to 1954 is hereby set aside conformably to our ruling that the plaintiff's possession of the said lot dur-ing that period was in good faith. To quiet the titles over the disputed lots, the Re-gister of Deeds of Tarlac is hereby ordered to cancel plaintiff's titles over lots 6339, 6554 and 6387 insofar as they affect the defendants' titles. On equitable considera-tions, no pronouncement as to costs in this instance is made."

Pleading for a reversal of the appealed joint decision, petitioner claims that the Court of Appeals committed, in turn, the following errors:

"I

THE COURT OF APPEALS ERRED IN NULLIFYING THE ORDER OF THE COURT OF FIRST INSTANCE OF TARLAC DATED OCTOBER 12, 1938, WHICH HAS LONG AGO BECOME FINAL AND CONCLUSIVE AND UPON WHICH RIGHTS OF YOUR PETITIONER AND ITS PREDECESSORS IN INTEREST HAVE BECOME VESTED ON THE LAND IN QUESTION.

II

THE COURT OF APPEALS ERRED IN HOLDING THAT THE ORDER OF 1938 DID NOT OPERATE AS RES ADJUDICATA ON THE DEFENDANTS IN THE PRESENT LITIGATION, AS WELL AS ON THE ISSUE OF VALIDITY OF THE HOMESTEAD AND FREE PATENT TITLES OVER THEIR RE-SPECTIVE LOTS.

III

THE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THE 1938 PROCEEDINGS AS PRO-CEEDINGS IN REM, BINDING AND CONCLUSIVE AGAINST THE WHOLE WORLD.

IV

THE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THAT WHEN THE HACIENDA MABA-BANABA WAS BROUGHT UNDER THE OPERATION OF THE TORRENS SYSTEM THROUGH THE ORIGI-NAL PROCEEDINGS IN LAND REGISTRATION CASE NO. 3387, IN 1908, IT ACQUIRED THE ATTRIBUTES OF INDEFEASIBILITY AND IMPRESCRIPTIBILITY AND THE SUBSEQUENT PRO-CEEDINGS THAT TRANSPIRED IN 1938 DID NOT REOPEN NOR RETRACT THE LEGALITY AND EF-FECTIVENESS OF THE TITLE OF THE LAND.

V

THE COURT OF APPEALS ERRED IN HOLDING THAT THE HOMESTEAD AND FREE PATENT TITLES OF THE DEFENDANTS' PREDECESSORS IN INTER-EST PRECEDED THOSE OF THE PLAINTIFF'S.

VI

THE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE HOMESTEAD AND FREE PATENT TITLES OF THE DEFENDANTS' PREDECESSORS WERE NULL AND VOID HAVING BEEN GRANTED OVER PRIVATE PROPERTY THAT HAD PREVIOUSLY BEEN TITLED.

VII

THE COURT OF APPEALS ERRED IN CONFIRMING THE TITLES OF DEFENDANTS WHO ENTERED INTO LEASES WITH THE PETITIONER AND WHO WERE DECLARED IN DEFAULT AND IN NOT APPLY-ING THE PRINCIPLE OF ESTOPPEL IN FAVOR OF THE PETITIONER, AS THEIR LANDLORD, PURSUANT TO THE CONCLUSIVE PRESUMPTION ESTABLISHED BY RULE 131, SEC. 3 (B) OF THE NEW RULES OF COURT.

VIII

THE COURT OF APPEALS ERRED IN HOLDING THAT THE JOINT TRIAL OF THESE TWO CASES OVER THE OBJECTION OF THE PLAINTIFF WAS PROPER, NOTWITHSTANDING THAT ONE OF THEM, CIVIL CASE NO. 1085 (G.R. NO. 28396—R, IN THE COURT OF APPEALS), BEING AN EJECTMENT PROCEEDING, IS A SPECIAL CIVIL ACTION RE-QUIRING PROMPT DISPOSITION, WITH POSSESSION BEING THE ONLY ISSUE INVOLVED THEREIN.

IX

THE COURT OF APPEALS ERRED IN HOLDING THAT PETITIONER IS NOT ENTITLED TO RECOVER DAMAGES FROM THE ASSURANCE FUND."

All the issues raised in the above assignments of error may be resolved, directly or indirectly, by deciding the following questions:

- 1) Whether or not the 34 hectares which include the area of the questioned cadastral lots numbered 6554, 6339 and 6387 were really part and parcel of Hacienda Mababanaba—hereinafter referred to as the Hacienda—originally belonging to Trinidad H. Pardo de Tavera;
- 2) What is the legal effect of the joint decision rendered by the Court of First Instance of Tarlac on October 12, 1938 in Registration Case No. 3387, Civil Case No. 4225 and Registration Case No. 1890?

The following findings of fact made by the Court of Appeals bear a decisive influence upon the fate of the appeals under consideration:

- 1) The Hacienda, as originally registered in the name of Tavera, to whom Original Certificate of Title No. 31 based on an old magnetic survey, was issued on September 14, 1908, had an area of 683.4739 hectares.
- 2) This area was confirmed almost 100% by the result of the resurvey of the Hacienda made sometime in 1933 by private surveyor Wenceslao Santiago, formerly a District Land Officer of the Bureau of Lands, who prepared the Plan Rs-414-D. This resurvey was performed making use of modern (transit) methods and showed that the area of the Hacienda was 683.7638 hectares, or an excess of only 2,899 square meters over the vast area stated in the Torrens Title of Tavera.

3) On the other hand, in relation to the additional survey of Surveyor Gatchalian, the Court of Appeals declared that "Nothing in the title of Tavera shows that the excess of 34 hectares forms part and parcel of the Hacienda."

The controversy about the 34 additional hectares— which include the area of the cadastral lots in question? arose because public land surveyor Gatchalian informed Segundo Dizon, who had acquired the Hacienda from Tavera on September 3, 1920 and to whom T.C.T. No. 359 was issued thereafter, that the Santiago resurvey did not include certain portions thereof. Upon receiving this information, Segundo Dizon asked Gatchalian to make an additional survey, which later gave rise to another Plan Ps-15499, the result of which was an additional 34 hectares over and above the area of the Hacienda as originally registered in the name of Tavera and subsequently confirmed by the Santiago resurvey.

After the resurvey of Santiago but before the additional survey of Gatchalian, Segundo Dizon filed a petition in Registration Case No. 3387 for the approval of the Santiago Plan Rs-414-D and the confirmation of his title over the 683.4739 hectares he had acquired from Tavera. After the Gatchalian additional survey Segundo Dizon amended his petition and prayed the Court for the approval of Plans Rs-414-D and Psu-15499; the correction of errors of closure in the technical description of T.C.T. No. 359 issued in his name on September 14, 1920, and the cancellation of the latter and the issuance in its stead of a new one in accordance with the aforesaid plans and the technical descriptions submitted to the court. This petition was opposed by the Director of Forestry, the Director of Lands and a number of occupants of public land adjoining the Hacienda.

Registration Case No. 3387, insofar as it involved the petitions of Segundo Dizon mentioned above, was tried jointly with Civil Case No. 4255 and Registration Case No. 1890 of the Court of First Instance of Tarlac. Civil Case No. 4255 was an action filed by Segundo Dizon against several parties, among them being Doroteo Merto and Roman Maregmen, in which he prayed for the confirmation of his ownership to 79 hectares (albeit the survey of Gatchalian showed only an excess of 34 hectares over the original area of the Hacienda) alleged to be within the land covered by Transfer Certificate of Title No. 359 issued in his name, and for the ejectment therefrom of the defendants found occupying different portions thereof. In Registration Case No. 1890, one Pedro Maregmen sought to register in his name two parcels of land portions of which were allegedly included in Dizon's Transfer Certificate of Title No. 359. After the joint trial of the three cases, the Court of First Instance of Tarlac rendered the decision of October 12, 1938 mentioned heretofore and from which the Director of Lands seasonably appealed. However, on March 1, 1940 the Court of Appeals, upon petition of the Solicitor General, dismissed the appeal insofar as it referred to Registration Case No. 3387 (said appeal was docketed as CA-G.R. L-5124) but "without prejudice to the appeal interposed by said oppositor-appellant in Case CA--G.R. No. 5125 (Registration Case 1890), Pedro Maregmen Primero vs. Segundo Dizon, et al." The appealed joint decision of the Court of Appeals states: "What happened to this latter case, the records before us do not show."

On February 24, 1941, upon the death of Segundo Dizon, his heirs Serapia del Rosario, Urbano and Geminiano Dizon became the owners of the Hacienda. T.C.T. 359 in the name of the deceased was thereupon cancelled and in lieu thereof T.C.T. Nos. 18471 and 19936 were issued to the new owners. On May 16, 1944, they sold the Hacienda to the Mabuhay Rubber Corporation and T.C.T. Nos. 20822 and 20823 were issued in the name of the latter. Subsequently the Hacienda was conveyed to petitioner Mabuhay Development Company to whom were issued, in turn, T.C.T. Nos. 16858 and 16859.

On November 9, 1954, petitioner, for the purpose of clearing its title, commenced civil action No. 986 in the Court of First Instance of Tarlac (which on appeal to the Court of Appeals became G.R. No. 28395-R and is now before Us as G.R. L-24705) praying that judgment be rendered:

"1. As to the First Cause of Action declaring T.C.T. No. 21113 (Tarlac) null and void and ordering the

defendant Remigio Ronquillo to surrender said certificate of title to the Register of Deeds of Tarlac for cancellation and to restore the Lot No. 6554 to the plaintiff;

"2. As to the Second Cause of Action, de-claring as null and void O.C.T. No. 244 (Tarlac) and ordering defendant Pedro Facun Quibuyen and/or the Rehabilitation Finance Corporation to surrender the same to the Register of Deeds of Tarlac for cancella-tion;

"3. As to the Third Cause of Action, declaring O.C.T. No. 985, T.C.T. No. 10954 and T.C.T. No. 11538 (all of the Register of Deeds of Tarlac) null and void and or-dering the defendants Fernando Racar and Mauricia Pagaduan and Consolacion Baysa to deliver to the Register of Deeds of Tarlac, T.C.T. No. 11538 (Tarlac) for cancellation;

"4. With regard to the Fourth Cause of Action, ordering the Register of Deeds of Tarlac to cancel T.C.T. No. 21113, O.C.T. No. 1244, in so far as it covers Lot 6339, and T.C.T. No. 11538 (all of Tarlac) as null and void, with an injunction from fur-ther transferring and issuing subsequent certificates in lieu thereof;

"5. As to the Fifth Cause of Action, order-ing the National Treasurer to indemnify the plaintiff the sum of P10,000 from the Assur-ance Fund, as damages sustained by the plain-tiff by reason of the erroneous and fraudulent registration of and issuance of certificates of title, which are null and void, plus costs of the suit."

The defendants therein—Remigio Ronquillo, Pedro Facun Quibuyen, Rehabilitation Finance Corporation, and others—filed their answers traversing the material alle-gations of the complaint, but other defendants were declared in default.

Aside from Civil Case No. 986, petitioner also instituted an ejectment case in the Justice of the Peace Court of Tarlac against Remigio Ronquillo, Alejandro Ramos and Teodoro Tipay in relation to Lot No. 6554, for damages and attorney's fees. On appeal to the Court of First In-stance of Tarlac and to the Court of Appeals the case was docketed as Civil Case 1085 and as CA—G.R. No. 28396-R, respectively, and is now before Us as G.R. No. L-24706.

After a joint trial of the two cases, the Court of First Instance of Tarlac, on March 31, 1960, rendered the joint decision that was later on appealed to the Court of Appeals, and modified by the latter through the joint decision of May 5, 1964 now under review by Us.

One of the petitioner's main contentions now is that the decision of October 12, 1938 is res judicata, binding upon the whole world because the same was rendered in a proceeding in rem; that this being so, its ownership of the 34 hectares in question may not now be questioned; that the private respondents are in unlawful occupancy of different portions of the aforesaid 34 hectares of land and must be ordered to vacate the same.

We cannot agree with petitioner's claim.

As stated heretofore, the Hacienda was originally titled on September 14, 1908 in the name of Trinidad H. Pardo de Tavera to whom O.C.T. No. 31 was issued, with an area of 683.4739 hectares only, which, as found by the Court of Appeals, did not include the 34 additional hectares now in question. It bears repeating that this area (683.4739) was confirmed by the Santiago resurvey made sometime in 1933.

Before discussing further the merits of petitioner's claim in this regard, We find it necessary to state how the lands claimed by the private respondents were acquired by them and to what extent they would be affected by the decision of October 12, 1938.

On January 19, 1933, Pedro Facun Quibuyen obtained a Homestead Patent over two parcels of land with a total area of 16.3912 hectares in the vicinity of the Hacienda, pursuant to which O.C.T. 1244 was later issued in his name. A portion of 4.5318 hectares (Lot 6339 now in dispute) of this titled land is now claimed by petitioner as

part of the additional 34 hectares claimed by surveyor Gatchalian as part of the Hacienda. Quibuyen mortgaged his land to the Rehabilitation Finance Corporation (now the Development Bank of the Philippines). On October 9, 1953, the mortgaged property was acquired by the Rehabilitation Finance Corporation as a result of a foreclosure proceeding instituted by it upon non-payment of the mortgage debt, resulting in the issuance of T.C.T. 26697 in its name.

On July 31, 1931, a Free Patent was also issued to Doroteo Merto over a parcel of land with an area of 15.1704 hectares, pursuant to which patent, O.C.T. 985 was later issued in his name. A portion of 6.1412 hectares of Merto's land is now similarly claimed by petitioner as Lot 6387. Merto ceded the entirety of his land to Rosalina Merto who, in turn, sold it to the spouses Fernando Racar and Mauricia Pagaduan, Catalino Racar and Consolacion Baysa, to whom T.C.T. 11538 was thereafter issued.

On May 11, 1933, Roman Maregmen obtained a Homestead Patent over a parcel of land with an area of 9.9999 hectares, pursuant to which O.C.T. 1283 was issued in his name. 9.7530 hectares of this parcel is now similarly claimed by petitioner as Lot No. 6554. Maregmen sold the entirety of his land to Remigio Ronquillo on June 14, 1944, as a result of which T.C.T. 21113 was issued in Ronquillo's name.

The Hacienda was formerly a single mass of land of more than 600 hectares. As a result of the cadastral survey of Tarlac in 1933, it was divided into 17 lots, amongst them being the lots now in question numbered 6339, 6387 and 6554 which, according to the joint decision appealed from, were not part of the Hacienda as titled in the name of the original registered owner, Tavera.

In the light of the finding of fact made by the Court of Appeals—that the three lots in question were not part of the Hacienda—it would seem that petitioner's case is left without any leg to stand on. But this notwithstanding, its brief raises the following question: What is the effect of the October 12, 1938 decision upon the rights of the parties who had secured title to the disputed lots? — one of them since July 31, 1931, and the other two since January 19, 1933 and May 11, 1933; that is, years prior to the filing of the petitions of Segundo Dizon in Registration Case No. 3387 asking the Court of First Instance of Tarlac to approve Plans Rs-414-D and Psu-15499, and more than five years prior to the decision of October 12, 1938.

It is to be noted in the first place that whatever alleged adjudication was made in favor of Segundo Dizon of the additional 34 hectares discovered by private surveyor Gatchalian was not made in a regular registration proceeding, neither was there compliance with the requirements of the law regarding notice to parties affected by the petitions, the owners of land adjoining the lots involved therein, and notice to the whole world by publication—requirements indispensable in all proceedings in rem intended to register land in the name of a particular party.

It is contended, however, that Dizon's petition was in the nature of a continuation of the original registration proceedings commenced in the name of Trinidad H. Pardo de Tavera prior to the year 1908. Considered even in this light, said proceedings and the decision rendered therein are void and of no legal force and effect. We have so held recently in two related cases entitled *Arsenio de la Cruz et al., petitioners vs. Potenciano Reano et al., respondents*, and *Francisco Juan et al., petitioners vs. Potenciano Reano et al., respondents*, G.R. Nos. L-29792 and L-29866, respectively, which involved facts very similar to, if not on all fours with the ones before Us.

The relevant facts in G.R. L-29792 are as follows:

"Pursuant to Homestead Patent No. V-21853 issued by the Secretary of Agriculture and Natural Resources, by authority of the President of the Philippines, on July 28, 1954, in accordance with the provisions of Commonwealth Act No. 141, Original Certificate of Title No. P-1870 was issued in the name of Simeon Gutierrez by the Office of the Register of Deeds for the Province of Nueva Ecija on August 18, 1956. It

covered Lots Nos. 1, 2 and 3 of plan H-105846 (hereinafter referred to simply as Lots 1, 2 and 3) — identical in technical description and in area to Lots 1896, 1914 and 1913, respectively, of the Cadastral Survey of Sta. Rosa, Nueva Ecija (certificate issued by the Acting District Land Officer of Nueva Ecija on July 11, 1968 marked as Annex A-1 and appearing at p. 12 of the record).

In the course of time Lots 1 and 2 were acquired by petitioner Arsenio dela Cruz in whose name Transfer Certificate of Title No. NT-69521 was issued. Dela Cruz also acquired Lot 3-A of subdivision plan (LRC) Psd-69137, with an area of 12,482 square meters, the same being a portion of Lot 3 (which corresponds to Lot No. 1913 of the Sta. Rosa Cadastre), Trans-fer Certificate of Title No. NT-70380 having been issued in his name.

On the other hand, petitioner Pedro Sangabol acquired Lot No. 3-C of the aforesaid subdivision plan (LRC) Psd-69137, the same being a portion of 30,003 sq. m. of Lot No. 3, and as a result Trans-fer Certificate of Title NT-69551 was issued in his name and that of his wife, Francisca del Rosario.

It further appears that by virtue of a parti-tion agreement inscribed on June 16, 1967, Lot 3-B of same subdivision plan (LRC) Psd-69137 - the remaining portion of Lot 3 - was acquired by the other petitioner, Lucia Gutierrez, to whom Trans-fer Certificate of Title No. NT-70251 was issued.

On May 16, 1966 - more than ten years after the issuance of Homestead Patent No. V-31853 and a little less than ten years after the issuance of Original Certificate of Title No. P-1870 - private respondent Potenciano Reano filed in Cadastral Case No. 67 of the Court of First Instance of Nueva Ecija a verified "Petition for Continuation of Cadastral Proceedings" (Underline supplied), alleging, substantially, that he was the owner of a parcel of land covered by Plan Psu-66102 approved by the Director of Lands on November 15, 1929, having acquired it from the previous owner, Pedro Padilla, who subsequently allowed it to be subdivided into 30 cadastral lots with an aggregate area identical to that of the land described in the aforesaid plan; that he had sufficient evidence to prove his title thereto and, on the strength of said allegations, prayed for the lifting of the order of general default entered in said Cadastral Case No. 67, and that, after pro-per proceedings, decision be rendered adju-dicating the aforesaid lots in his favor.

On November 16 of the same year, Judge Serafin R. Cuevas, then presiding the lower court, rendered judgment adjudicating a number of lots in favor of Potenciano Reano, among them being Lots 1896, 1913 and 1914 of the Cadastral Survey of Sta. Rosa, Nueva Ecija. On June 6, 1968, alleging that, pur-suant to said decision, the decree of regis-tration as well as the corresponding original certificates of title No. 3187 (for Cadastral Lot No. 1896); No. 3178 (for Id. Lot No. 1913), and No. 3176 (for Id. Lot No. 1914) had been issued in his name, said respondent filed an ex—parte motion with the lower court praying for the issuance of a writ of possession di-recting any officer of the law to place him in physical possession of the lands covered by said titles. This petition was heard and subsequently granted ex-parte. It was only when the writ of possession issued on the 11th of the same month was served upon petitioners that they learned of the proceedings instituted by Reano and discovered that Cadastral Lots Nos. 1896, 1913 and 1914 — which were already covered by Original Certificate of Title No. P-1870 is-sued since August 18, 1956 in the name of their predecessor in interest, Simeon Gutierrez — were among those adjudicated to Reano. Consequently, they filed with the lower court a verified motion to set aside the writ of pos-session, but the same was denied by the respon-dent judge in his order of October 4, 1968. Their motion for reconsideration filed there-after having been likewise denied by His Honor in an order of October 29 of the same year, petitioners filed the present petition for certiorari praying:

“1. That a writ of certiorari be issued directing the respondent Judge Florendo Aquino to certify to this Honorable Court a transcript of the proceedings in Cadastral Case No. 67, L.R.C. Cadastral Record No. 1556, Lots Nos. 1896, 1914 and 1913, Direc-tor of Lands versus Potenciano Reano, et al., claimants;

“2. That after the correspond-ing hearing of the parties herein, a final judgment be entered annulling the writs of

possession and the orders of October 4, 1968 and October 29, 1968;

"3. That pending the final hearing and determination of these proceedings, an order of preliminary injunction be issued directing the respondent Judge Florendo Aquino to refrain and desist, until further orders from this Court, from enforcing the writs of possession, and declaring the said orders and writs, null and void; and,

"4. That petitioners recover their costs."

Our findings of fact in the other case (G.R. L-29866) are similar to those reproduced above.

In connection with both cases We said in our joint decision:

"On May 16, 1966, or eighteen years after the issuance of Original Certificate of Title No. P-275, private respondent Potenciano Reano filed a "Petition for Continuation of Cadastral Proceedings" in Cadastral Case No. 67 praying for the setting aside of the order of general default entered in said proceeding and for the registration in his name of several parcels of land situated in Sta. Rosa, Nueva Ecija, among them being Lot No. 1863 of the Cadastral Survey of said municipality. On November 16 of the same year the Court of First Instance of Nueva Ecija, acting as a cadastral court rendered a decision adjudicating to respondent Reano the lots included in his application, including Lot No. 1863. Subsequently, alleging that the decision rendered in his favor had become executory and that Original Certificate of Title No. O-3176 covering Lot 1863 had been issued in his name, Reano filed an ex-parte motion for the issuance of a writ of possession directing any peace officer to place him in possession of several lots, among them the aforesaid Lot No. 1863. After an ex-parte hearing, respondent judge granted said motion.

On July 3, 1968, having become aware of the situation above described, petitioners filed a motion praying for the setting aside of the order for the issuance of the writ of possession mentioned above, but the respondent judge denied it on October 4 of the same year. Then on October 11 petitioners filed another motion for reconsideration alleging that the title issued in favor of private respondent Reano was null and void and, therefore, should be cancelled, and that the writ of possession mentioned heretofore should be likewise set aside, but this motion met the same fate by order of the respondent judge of October 29, 1968. Thereafter the Juans filed the petition for certiorari (L-29866) now before Us. The answer thereto filed by the private respondent alleges substantially the same defenses interposed in his answer in L-29792.

The following are, We believe, pertinent and relevant considerations in deciding the two cases before Us.

(1) Pursuant to Homestead Patents No. V-31853 granted on July 28, 1954, Original Certificate of Title No. P-1870 was issued in the name of Simeon Gutierrez on August 18, 1956, the same covering Lots Nos. 1, 2 and 3 of Plan H-105846 which, beyond question, correspond to Lots 1896, 1914 and 1913 of the Cadastral Survey of Sta. Rosa, Nueva Ecija, respectively.

As official duty is presumed to have been duly performed and the Homestead Patent and Original Certificate of Title abovementioned are entitled to full credit in the absence of clear proof that they were issued illegally or through fraud, it can be safely said that prior to the issuance of the aforesaid Homestead Patent, Simeon Gutierrez had filed the corresponding homestead application; that, after the necessary survey had been made and proper notice was served, the required investigation was conducted by the State; that applicant Gutierrez was found to have been in possession of the property applied for and to have made thereon the required cultivation. That Gutierrez had really been in possession of said land from the time of the filing of his homestead application, and that his successors in interest had continued such possession and are still enjoying the same, is further demonstrated by these facts: firstly, respondent Reano had to file a petition for the issuance of a writ of possession to oust them and, in turn, to obtain possession of Lots 1896, 1914 and 1913; secondly, on May 16, 1966, Reano filed in Cadastral Case No. 67 a "Petition for Continuation of Cadastral Proceedings" and for the setting aside of the order of general default already entered therein; all of which necessarily means that Pedro Padilla, his alleged predecessor in interest, had not claimed Lots 1896, 1914 and

1913 when the proceedings were started.

(2) It was only on May 16, 1966 or more than ten years after the issuance of the Home-stead Patent in favor of Simeon Gutierrez, and nearly ten years after the issuance of Original Certificate of Title No. P-1870 that private respondent Reano filed a petition to register in his name the same cadastral lots.

(3) In the case of G.R. L-29866, Home-stead Patent No. D-995 and Original Certificate of Title No. P-275 - both covering Lot No. 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija - were issued on the same date - July 24, 1948 - in the name of Mariano Juan. As in the case of the lots involved in L-29792, it must likewise be presumed that prior to July 24, 1948 Mariano Juan had been in possession of and had been cultivating Lot 1863, and that it was only after adequate investigations had been made by the Bureau of Lands that the Homestead Patent in his favor was issued.

It was only on May 16, 1966, or eighteen full years after the issuance of the Homestead Patent and Original Certificate of Title already mentioned, that Reano filed a petition for the continuation of the proper cadastral proceedings so that he could claim several lots, among them Lot 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija.

Further proof of the fact that Mariano Juan and, after his death, his heirs have been and still are in possession of Lot 1863 is the fact that Reano's alleged predecessor in interest did not file his answer or claim to Lot 1863 at the start of the cadastral proceedings and was therefore included in the order of general default issued therein, and he (Reano) had to file on June 6, 1968 an ex-parte motion for the issuance of a writ of possession under which he could eject the Juans from Lot 1863 and, in turn, obtain possession thereof.

The issue arising from the above facts may be briefly stated as follows:

May a parcel of land already titled for more than ten years in the name of a party by virtue of a Homestead Patent issued by the Government in the ordinary course of administrative proceedings, be registered again in the name of another party as a result of sub-sequent cadastral proceedings?

The answer, We believe, must be in the negative.

In *Manalo vs. Lukban, et al.*, Vol. 48, Phil. p. 973, We held that land granted by the Government to a private individual who applied for it as a homestead, is considered no longer registerable within the meaning of the Land Registration Act after the issuance of the homestead patent and the original certificate of title issued in accordance therewith.

In *Pamintuan vs. San Agustin et al.*, 43 Phil. 558, as well as in *El Hogar Filipino vs. Olviga*, 60 Phil. p. 17, We likewise held that in a cadastral proceeding the Court has no jurisdiction to decree again the registration of land already decreed and registered in an earlier registration case, and that the second decree entered for the same land is null and void.

Moreover, considering that the petitioners in both cases before Us and their predecessors had been in possession of the land, first as homesteaders and later, as absolute owners, for more than ten years before respondent Reano filed his application for registration; that, as a result of the proceedings had in connection with their Homestead application, the homestead patents and original certificate of title mentioned heretofore were issued in their name, no further argument is needed to show that said petitioners and their predecessors had acquired title to the land by prescription.

It being clear from the foregoing that the registration decreed in the name of private respondent Reano of Lots 1896, 1914, 1913 and 1863 of the Cadastral Survey of Sta. Rosa, Nueva Ecija is null and void, the certificates of title covering the same issued in his name must also be deemed null and void. From this the inevitable conclusion is that he had no right to the issuance of the writs of possession complained of."

While in view of what has been stated heretofore it would seem unnecessary to further discuss the question of res judicata as well as the plea of estoppel invoked by petitioner against private respondents, We wish to add in relation to such matters that the October 12, 1938 decision having been the subject of an appeal and there being nothing in this record to show what had become of it, as the Court of Appeals declared in its appealed joint decision, We cannot see how it can be legally maintained that the aforesaid decision constitutes res judicata. Neither can We see Our way clear to upholding petitioner's contention of estoppel in the face of the registered titles over the lots in dispute issued in the name of the private respondents and/or their predecessors in interest, their actual occupancy of the disputed lots and their claim of exclusive ownership thereon.

Two questions raised by petitioner remain to be resolved, namely: that it was error for the Court of First Instance of Tarlac to try and decide jointly the two cases mentioned heretofore (Civil Cases Nos. 986 and 1085 of the Court of First Instance of Tarlac), and petitioner's claim against the Assurance Fund.

Petitioner's contention in relation to both issues is without merit.

The joint trial of the two cases was obviously one within the sound discretion of the trial court to determine and it is manifest from the record that it did not, in fact, it could not have reasonably caused any substantial prejudice to the cause and interest of the petitioner herein. Besides, it is obvious that any error committed below in connection with this matter is purely technical and is not a reversible error.

With respect to petitioner's recourse against the Assurance Fund it is clear that, under the law, recovery from the latter for wrongful deprivation of land may lie only if it is proven that the claimant was in reality wrongfully deprived of his land by the registration thereof in the name of another person through actual or constructive fraud; that there was no negligence on his part; that he is not barred or in any way precluded from bringing an action for the recovery of the land or interest therein, and lastly, that the action for compensation has not prescribed (*Estrella et al., vs. Martinez* 48 Phil. 256-265). The lands claimed by petitioner herein were found by the Court of Appeals to be not a part of the Hacienda acquired by Segundo Dizon from Trinidad H. Pardo de Tavera and later acquired by petitioner's predecessor in interest from the heirs of Segundo Dizon. Upon the other hand, it also appears from what has been said heretofore that the private respondents and/or their predecessors in interest acquired the disputed lots legally. As it appears clear that petitioner was not deprived of any land belonging to him through its fraudulent registration in the name of other persons, its claim against the Assurance Fund cannot be sustained.

WHEREFORE, the appealed joint decision of the Court of Appeals is hereby affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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