

RITA GARCHITORENA VDA. DE CENTENERA, PETITIONER VS. THE DIRECTOR OF LANDS ET AL., OPPOSITORS, HERMOGENES P. OBIAS, ET AL., OPPOSITORS AND APPELLEES, MARIANO GARCHITORENA, MOVANT...

G.R. No. R-49066. November 05, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

Mariano Garchitorena has acquired the ownership of a large area of land in Caramoan, Camarines Sur, title to which was applied to be registered in her name by Rita Garchitorena, Vda. de Centenera, as heir of her father Andres Garchitorena, its former owner.

The order of Judge Pablo Angeles David, issued on June 28, 19⁴¹, against which Mariano Garchitorena prosecuted this appeal, is closely related to the decisions rendered by the Court of First Instance of Camarines Sur and this Supreme Court in the land registration case, commenced by Rita Garchitorena to secure title in her name over the large area of land in Caramoan which, according to the original plan PSU-66063, comprises 27,707,760 square meters.

The decision of the Court of First Instance of Camarines Sur was rendered on May 14, 1931. The same court amended it before it was appealed to the Supreme Court in an order dated July 28, 1931. The decision of the Supreme Court was promulgated on March 4, 1933(58 Phil. 21-26).

The dispositive part of the decision of the trial court dated May 14, 1931, is as follows:

"Por todo lo arriba expuesto, se dicta sentencia estimando las oposiciones presentadas por el Director de Terrenos, Hermogenes P. Obias, Ramon y Jose Alvarez y Januario Alferez, y los otros opositores de ap/ellidos Qarchitorena y todo de acuerdo con los terminos de esta decision desestimandose tambien la oposicion del Director de Montes y previa enmienda del piano por la que se excluya por la solicitante las porciones pertenecientes a dichos opositores cuyas oposiciones han prosperado y de acuerdo con los terminos de esta decision, se decreta la adjudicacion y registro del terreno a favor de la solicitante Rita Garchitorena Vda. de Centenera sujeta a los siguientes gravamenes a saber:

"(a) A favor de Mariano Garchitorena por cesion del Banco Nacional Filipino la suma de P5,500 con intereses al 10 anual desde el 31 de Marzo de 1921 hasta su completo pago.

"(b) A favor de Flor de Garchitorena y Marcel de Garchitorena la suma de P5,107.39 con sus intereses al 6 por ciento anual desde el 1 de Octubre de 1924 hasta su completo pago.

"(c) A favor de Li Seng Giap la suma de P2,569.71 mas que SU3 Intereses al 1C\$ anual desde el 30 de Septiembre de 1921 hasta su completo pago.

"Se sobresee la demanda entablada en la causa civil No. 4783 absolviendo a la demandada Doffa Rita Garchitorena sin pronunciamiento alguno en cuanto a las costas.

"Asi se ordena.

"Dada en Naga, Camarines Sur, hoy a 14 de Mayo de 1931.

"(Pdo.)

C. M. VILLAREAL "

The application of Rita Garchitorena was accompanied by the original plan, PSU-66063, Exhibit H, where the land claimed by appellee Hermogenes P. Obias appears to be clearly marked by the surveyor as "Claimed by H. P. Obias under L.A. No. 2782."

In his opposition, Obias pointed specifically to said part of the land as the one he is claiming under his lease application No. 2782, filed with the Bureau of Lands, praying that the application of Rita Garchitorena Be denied as to said land.

On July 21, 1931, the following motion was filed in the case:

"Comes now the undersigned attorney on behalf of the Director of Lands and respectfully represents to this Honorable Court:

"I. That a copy of the decision in the above entitled case was received by the undersigned for the Director of Lands on July 18, 1931;

"II. That while in paragraph five of the decision referred to it states: 'xxx la porcion arrendada por el del Gobierno antes referida (que es toda la porcion indicada en el piano Exh. 'H' desde la punta de Tinawagan al Norte hasta la linea que aparece en el piano desde Casisihan hasta Gobgob) xxx', es un terreno publico no ocupado por nadie xxx1, in paragraph six it reads: 'xxx Considerando que el terreno tal como fue medido para fines de registro excede ya en muchos cientos de hectareas sobre su extension superficial expresada en el titulo posesorio Exh. 'B1 la eorte estima que el terreno arrendado por el Gobierno al opositor Hermogenes P. Obias fue en efecto indebidamente comprendido dentro del piano de la solicitante, pero que su extension, sin embargo, no es ya de 800 hectareas como se pretende por este opositor sino de 300 hectareas solaraenta tal como consta en la solicitud de arrendamiento Exh. "7", * * *';

"III. That the terms above-quoted are inconsistent with each other, for while in paragraph six the area of the public land i3 limited to 300 hectares, in paragraph five the limits stated that is, from Point Tinawagan to Gobgob, comprise more than 800 hectares according to computation.

"Wherefore, the undersigned prays that the terms of the decision with respect to the limits of the portion declared public lands be clarified by making reference to the number of the corners shown on the plan Exh. 'H' in order that the Director of Lands may properly decide whether to appeal or not, and also in order to facilitate the amendment of the said plan should the decision become final or confirms in case of appeal."

Consequently, on July 28, 1931, the following amendatory order was issued:

"Considerada la mocion presentada por el abogado especial del Buro de Terrenos de fecha 21 del actual y en vista tambien de la conformidad de las partes intereaaadas, se enmienda la parte que esta entre parentesis de la pagina 3 de la decision, de tal modo que diga: "Que es toda la porcion indicada en el piano Exh. "H' desde la punta de Tinawagan al norte hasta la linea que aparece en el piano desde Gobgob hasta Carirohan."

The land claimed by Obias, in his opposition against Rita Garchitorena, as can be seen in said opposition, in the

original plan PSU-66063, Exhibit H, and in the amendatory order of July 28, 1931, appears to be enclosed within clear-cut boundaries: the sea in the north, east and west, and in the south by a straight line running from Gobgob creek to Carirohan creek. In some parts of the record Carirohan is mistakenly written as Casisihan. The "Punta de Tinawagag," mentioned in the amended amendatory order, refers to the pointed tip in the northern end of the land.

On June 20, 1948, Mariano Garchitorena filed a motion praying for the approval of sub-division plan PSU-66063-Arad, that decrees be issued so that the titles on Lots Nos. 2, 3, and of the original plan PSU-66063 and on Lots Nos. 1, 5, 6, 7, and 8 of the sub-division plan PSU-66063-Amd be issued in his name.

He alleged that on May 14, 1931, the lower court rendered judgment ordering issuance of titles to Rita Garchitorena as heir of her deceased father Andres Garchitorena on four lots, with the exception of the following:

- Part of lot No. 1, measuring about 500 hectares, as being the property of Ramon and Jose Alvarez;
- Part of lot No. 1, of about 300 hectares, as being public land;
- Part of lot No. 1, of about 18 hectares, as being the property of Hermogenes P. Obias; and
- Part of lot No. 1, of about 24 hectares, for being the property of Januario Alferez and the rest as public land which the same Alferez applied for as homestead. The lots to be registered in the name of Rita Garchltorena were subject to liens in favor of Mariano Garchitorena and other creditors.

The Supreme Court modified the Judgment by declaring that the properties ordered to be registered in the name of Rita Garchitorena belong to Andres Garchitorena and reserving to his administrator and creditors the right of action under Sees. 712 and 713 of the Code of Civil Procedure.

Accordingly, Mariano Garchitorena and brothers brought an action against Rita Garchitorena, wherein decision was rendered ordering her to deliver the possession of all the lots in question to the administrator of the intestate of Andres Garchitorena to be applied to the payment of pending debts of the deceased.

On September 7, 1935, the administrator Jose M. Garchitorena sold at public auction the lots in question in favor of Mariano Garchitorena for the price of P28,745.93The sale was approved by the lower court on April 26, 1940.

At the time the motion of June 20, 1940, was filed by Mariano Garchitorena, no decree for the issuance of the corresponding certificate of titles has yet been issued because the order of sub-division to segregate the portions adjudicated to theoppositors has not yet been complied with.

On April 27, 1939, Mariano Garchitorena bought the 500 hectares ordered excluded as belonging to Ramon and Jose Alvarez.

Mariano Garchitorena alleged that in sub-division plan PSU-66063-Amd the portions of oppositors to be segregated are Indicated as follows:

- The 500 hectares belonging to Ramon and Jose Alvarez are segregated as lots 1, 6, and 7;
- The 300 hectares to be segregated as public land airw identified as lot No. 9;
- The portion of 18 hectares belonging to Hermogenes is identified as lot No. 10;
- The lot of 24 hectares as belonging to Januario Alferez and the rest applied for by him as homestead appear to be the unnumbered lot appearing at the southeast of the plan;
- The remaiimftey of lot No. lf©f the original plan PSU-66063, after the segregations ordered by the court, is comprised within lots Nos. 6 and 8.

Lots Nos. 2, 3, and k of the original plan had not suffered any alteration and are designated by the same number in the amended plan.

On July 30, 19⁴⁰, Hermogenes P. Obias and others filed objections to the motion of Garchitorena.

On September 15, 1940, Mariano Garchitorena filed a reply,.

The Director of Lands filed on July 24, 1910, an opposition upon the following grounds:

- Because the sub-division plan PSU-66063-Amd does not comply with the terms and conditions of the original decision of the lower court dated May 14, 1931, or the decision on appeal of the Supreme Court promulgated on March 4, 1933.

- Because Mariano Garchitorena is not entitled to registration in his name within the same case of the portions daimed by Ramon and Jose Alvarez.

Mariano Garchitorena filed on August 14, 1940, a reply to the opposition of the Director of Lands.

On June 28, 1941, the lower court issued an order for the amendment of plan PSU-66o63-Amd, so that the portion claimed by Hermogenes P. Obias should duly be represented, in accordance with the amendatory decision of the lower court and affirmed by the Supreme Court, and that once the amendment is made, the title be issued in favor of Mariano Garchitorena on lots 2, 3, and 4 of the original plan PSU-66063; on lots 6 and 8 of the sub-division plan PSU-66063-Amd and on lots 1, 6, 7 of the same sub-division plan, and that title be issued in favor of Hermogenes P. Obias on lot No. 10 of the sub-division plan PSU-66063-Amd.

On July 24, 1941, Mariano Garchitorena filed a motion for reconsideration which was denied on October 3, 1941.

In his appeal, Mariano Garchitorena made four assignments of error, although the whole controversy can be

reduced to a single question.

According to appellant, the instant controversy hinges on the opposition of Hermogenes P. Obias. He complains against the order of June 28, 1941, of the Court of First Instance of Camarlñes Sur, for the amendment of plan PSU-66063-Amd, in such a way that the portion claimed by Hermogenes P. Obias be duly represented in accordance with the amendatory decision of said court and affirmed by the Supreme Court.

According to the statement of facts of appellant, the trial court rendered Judgment on May 14, 1931, upholding the oppositions of the Director of Lands, Hermogenes P. Obias, Ramon and Jose Alvarez, and Januario Alferez against the application of Rita Garchitorena. Referring to the opposition of Hermogenes P. Obias, the trial court said the following: "the portions claimed by the oppositor, that is, the portion he leased from the government above referred to (which is the whole portion indicated in plan Exhibit H from the point of Tinawagan in the north up to the line which appears in the plan from Casisihari up to Gobgob);" it said further that "considering that the land as measured for registration purposes exceeds in many hundreds of hectares the area appearing in possessory title Exhibit 'B', the court concludes that the land leased by the government to oppositor Hermogenes P. Obias was in effect unduly included within the plan of applicant, but its area, notwithstanding, is not more than 800 hectares as appears in the lease application Exhibit '7.'"

On July 28, 1939, upon motion of the Bureau of Lands asking the court to describe the corners and boundaries of the portion of the land held to have been leased to Obias by the government, the lower court issued an order amending the portion of the original decision containing the description of what Obias claimed, saying: "considering the motion filed by the special attorney of the Bureau of Lands dated on the 21st instant and in view also of the conformity of the interested parties, that part (in page 3 in the decision referred to) is amended so as to read as follows: 'which is all the portion indicated in plan Exhibit "H* from the point of Tinawagan in the north up to the line which appears in the plan from Gabgob to Carirohani"' Rita Garchitorena appealed to the Supreme Court, which, on March 4, 1933, handed down its decision reported in 58 Phil. 21.

With reference to the portion claimed by Hermogenes P. Obias, the Supreme Court said:

"Hermogenes P. Obias stated that some 800 hectares belong to him as a part of the land in question, but it seems quite clear that he had only 300 hectares as appears in the application for a lease given him by the Director of Lands, and the court below holds that the land leased by the government to the opponent Hermogenes P. Obias is unduly included in the government's plan." (58 Phil. 22). Hermogenes P. Obias claims that he is entitled to the 800 hectares comprised within the lots Nos. 1, 5, 6, 7, 8, and 9 of subdivision plan PSU-66063-Amd., alleging that said subdivision is not in conformity with the court's decision of May 14, 1931, as amended and with the Supreme Court decision on appeal of March 4, 1933.

In support of his first two assignments of error, appellant contends that the original decision awarding Obias 300 hectares by way of lease was not amended so as to award to him 800 hectares instead. In support of this theory, appellant advances the following propositions:

First, that the so-called amendatory order of July 28, 1931, expressly referred only to that portion (of the original decision) describing and reciting the extent of Obias' claim, and said order did not affect the dispositive portion of said decision.

Second, that the above mentioned dispositive portion, awarding only 300 hectares to Obias by way of lease, was in no manner altered by the lower court or by the Supreme Court.

Third, that the express holding, both by the lower court and the Supreme Court, in respect of Obias' claim for damages allegedly done to his cattle, is sufficient proof that Obias is entitled only to 300 hectares.

In support of the above propositions, appellant contends that there is nothing in the terms of the order of July 28, 1931, from which it may be inferred that it adjudicated anything to Obias, adding that, whether it is true that the court ordered an amendment of some sort, said amendment expressly referred to that part (which was nothing but the recital of the claim of Obias to what was adjudicated to him), and this precisely was the reason why no objection was interposed by the Interested parties. The amendment has been made upon motion of the Director of Lands praying that the portion claimed by Obias "be described as to its corners and boundaries." Appellant emphasizes that even considering for the sake of argument that the court based its judgment upon said description, the adjudication would still control for the reasoning of the court in rendering a judgment forms no part of a judgment as regards its conclusive effect.

After a careful consideration of the question raised by appellant, we are constrained to conclude that his appeal is groundless. His whole theory is based on the statements made in the original decision of the trial court and in the decision of the Supreme Court to the effect that the land claimed by Obias was about three hundred hectares, the statements being based on the fact that such is the area given in the lease application filed by Obias with the Bureau of Lands. But such statements cannot prevail over the clear description made in the amendatory order of July 28, 1931, enclosing clearly the land within the sea surrounding its three sides and a straight line running from Gobgob creek to Carirohan creek.

Said amendatory order is, undoubtedly, an essential part of the judgment of May 14, 1931, upholding several oppositions to the application of Rita Garchitorena, among them that of Hermogenes P. Obias.

The dispositive part of the original decision does not describe the land claimed by Obias, but that omission is filled up by the description made in the amendatory order of July 28, 1931. There could be no question in the minds of all the parties concerned, including applicant Rita Garchitorena, from whom Mariano Garchitorena derived his rights, as to the identity of the land claimed by Obias, find that is the reason why the amendatory order of July 28, 1931, was issued with the conformity of all the parties.

There could not be any doubt as to the identity of said land, because the same was clearly delimited and pointed out in the original plan PSU-66063, Exhibit H, which was filed by Rita Garchitorena with her application for registration, and said original plan was accessible to all parties from the very beginning of the proceedings until original decision was rendered on May 14, 1931, until the amendatory order was issued on July 28, 1931, and until the Supreme Court promulgated its decision on March 4, 1933. The same land as appears in said plan Exhibit H as claimed by Obias is specifically pointed out by Obias in his written Opposition.

It is elemental that when there is a conflict between the area and the boundaries of a land, the latter prevails.

Appellant Mariano Garchitorena has absolutely no right to have a title issued in his favor on a land that does not belong to him. He has no right to profit by any error as to area of the adjoining lands. The fact that the area given the land claimed by Obias was about 300 hectares, when the actual land enclosed within the disputed boundaries is around 500 hectares, does not entitle Mariano Garchitorena to have the difference of about 200 hectares, by going beyond the Boundary line enclosing his own land and encroaching upon the one belonging to the state and claimed by Obias, as lessee.

The error as to the area of the land claimed by Obias is explained by the fact that said land has not yet been measured and Obias had greatly underestimated the area of the land when he filed his lease application with the Bureau of Lands. That underestimation of the area is no legal ground for Mariano Garchitorena to enrich himself gratuitously with 200 hectares at the expense of the State and Obias.

The appealed order, dated June 28, 1941, is affirmed.

Moran, C.J., Feria, Briones, and Tuason, JJ., concur.

PABLO, M., concurrente;

Concurro con la opinion de la mayoria en cuanto confirma la orden del Juzgado de Primera Instancia de 28 de Junio de 1941, pero no estoy conforme con algunos de sus pronunciamientos.

En mi concepto, la cuestión se reduce a lo siguiente: ¿que debe excluirse del terreno cuyo registro se pide, son 300 hectáreas solamente o todo el terreno que está dentro de la descripción siguiente: "Toda la porción indicada en el plano Exh. H desde la punta de Tinawagan al norte hasta la línea que aparece en el plano desde Gobgo" hasta Garirohan"?

El Juzgado de Primera Instancia en 28 de Julio de 1931 dictó una orden del tenor siguiente: "Considerada la moción presentada por el abogado especial del Euro de Terrenos de fecha 21 del actual y en vista también de la conformidad de las partes interesadas, se enmienda la parte que está entre paréntesis de la página 3 de la decisión, de tal modo que diga: "Que es toda la porción indicada en el plano Exh. 'H' desde la punta de Tinawagan al norte hasta la línea que aparece en el plano desde Gobgo hasta Carirohan." Entre estos dos puntos se trazó una línea en lápiz rojo. Hermogenes P. Obias, coino arrendatario, reclama toda esta porción y el Director de Terrenos la reclama también porque es del Estado, y arrendada por Obias, Porque este solicitó del Buro de Terrenos el arrendamiento de 300 hectáreas además de hacer constar los linderos, el apelante contiene que no debe excluirse del terreno más que una porción de 300 hectáreas y no todo el terreno ya delimitado más arriba. Esta contención es insostenible. Lo que importa en el caso presente es la descripción del terreno, que es un cuerpo cierto, y no su cabida. (Teran contra Villanueva Vda. de Riosa y otros, 56 Jur. Fil., 736). Lo que determina un terreno, no es la extensión superficial poco más o menos calculada que se menciona en la descripción, sino los linderos expresados en la misma. Cuando en 28 de Junio de 1931 dictó el Juzgado su orden disponiendo la enmienda del plano PSU66063-Amd, para que se especifique de una manera técnica la porción reclamada por el Director de Terrenos y Hermogenes P. Obias, de acuerdo con su orden de 28 de Julio de 1931 enmendando su decisión de 14 de Mayo de 1931, yo he hecho más que hacer cumplir su orden ya final y ejecutoria (de 28 de Julio de 1931) y de acuerdo con las disposiciones de la Ley de Registro para la definitiva terminación de toda controversia sobre el terreno.

Por tanto, debe excluirse del terreno cuyo registro se pide la porción delimitada por la descripción ya transcrita y no 300 hectáreas solamente.

D I S S E N T I N G

PARAS, J.,

In a registration case instituted by Rita Garchitorena, wherein the Director of Lands, Hermogenes P. Obias and others severally filed oppositions, the Court of First Instance of Camarines Sur rendered a decision on May 14, 1931, which, in so far as it is pertinent to the present appeal, reads as follows:

La controversia entre la solicitante y el Director de Terrenos y Hermogenes P. Obias. — Esta constituyó una de las principales controversias en este expediente.

"Según las pruebas de la solicitante, todo el terreno objeto de la solicitud que claramente comprende todas las porciones de terreno reclamadas por el opositor Hermogenes P. Obias en gran parte, en calidad de arrendamiento del Gobierno y en una pequeña porción, como propiedad privada, estaban en la posesión primeramente de su padre, el finado Don Andres Garchitorena quien tenía a su nombre el título posesorio Exh. "B" desde el tiempo del Gobierno Español y que una mitad de este terreno fue" adquirido por la

solicitante en corapra de su misrao padre hacia el ano 1918 segun el Exh. 'A' y la otra mitad fue" adquirida por la misma solicitante en concepto de herencia de su citado padre al fallecimiento de e"ste el ano 1921, y que ambas posesiones, esto es, tanto la de la solicitante asi como la de su antecesor Don Andre's Garchitorena fueron en concepto de dueños, y de una manera pacífica, continuada y adversa.

"Pero de acuerdo con la prueba del Director de Terrenos y Hermogenes P. Obias, aunque se admite que en gran parte el terreno objeto de la solicitud fue ocupada o poseída primero por el difunto Don Andre's Garchitorena, sin embargo, las porciones arrendada por el del Gobierno antes referida (que es toda la porcionindicada en el piano Exh. "H" desde la punta de Tinawagan al Norte hasta la lnea que aparece en el piano desde Casisihan hasta Gobgob) y la otra porcionque e1 reclama, jamas estuvieron en la posesiontanto de la solicitante como del finado Don AndressGarchitorena, sino que la primera porciones un terreno publico no ocupado por nadie y la segunda es una porcionde unas 18 hectdreas que desde el 1904 ya estaba en posesionde un tal Isidro Frlas,c" y despuds, pas6 por venta a la posesiondel Chino Jose" Reyes Lira Coco y de este pas6 al opositor Oblas segun el Exh. '2'-Obias.

"Considerando que el terreno tal como fue" medido para fines de registro excede ya en muchos cientos de hectdreas sobre su,extensionsuperficial expresada en el ttulo posesorio Exh. "B" la corte estima que el terreno arrendado por el Gobierno al opositor Herrogenes P. Oblas , fu4 en efecto indebidamente comprendido dentro del piano de la solicitante, pero que en extension, sin embargo, no es ya de 800 hectdreas como se pretende por este opositor sino de unas 300 hectdreas solamente tal como consta en la solicitud de arrendamiento Exh. '7' y que en cuanto a la otra porcionde 18 hectdreas circundada con lapiz rojo en el piano Exh. "H" y marcada No. 27 en dicho piano, las pruebas sun suficientes para establecer que esta porcion fue adquirido por prescripcion posesionadversa por mds ge 10 aaios de conformidad con las disposiciones del Art. hi delCodigo de Procedimiento Civil de parte del vendedor del opositor Obias segun su Exhibito. '2'—Obias11 y que por tanto de esta porcionde 18 hectdreas el opositor Oblas debe ser declarado como su duefio"

En cuanto a los daños reclamados por el opositor Sr. Oblas en la causa civil No. V783 entre 61 y la solicitante, tal como results ahora, no hay base legal suficiente para la reclamacion de aquellos dafios, por la falta de precisifin en las pruebas sobre si los vacunos fueron echados de este radio de 300 hectdreas o dentro de las 500 hectdreas de mas que reclama el opcrsitor y que justaruente segun los te*rminos de esta decision estdn comprendidos dentro del terreno comprendido en el titulo posesorio Exh. "B" y que por esta razon la reclamaciondebe ser sobreseida.

Por todo lo arriba expuesto, se dicta sentencia estimando las oposiciones presentadas por el Director de Terrenos, Herm6gefes P« Obias, Ramon y Jose Alvare2 y Januario Iferez, y los otros opositores de apellidos Garchitorena y todo de acuerdo con los terminos de esta decision, desestimandose tambien la oposicion del Director de Montes y previa enmienda del piano por la que se excluya por la solicitante las porciones pertenecientes a dichos opositores cuyas oposiciones haa prosperado y de acuerdo con los terminos de esta decision, se decreta la ad^udicacion y registro del terreno a favor de la solicitante Rita Garchitorena Vda. de Centenera sujeta a los siguientes gravamenes a sabers

"Se sobresee la demanda entablada en la causa civil No. 4783 absolviendo a la demandada Dona Rita Garchitorena sin pronunciamiento alguno en cuanto a las costas.

On July 21, 1931, the Director of Lands filed a motion praying that "the terms of the decision with respect to the limits of the portion declared public lands be clarified by making reference to the number of the corners shown on the plan Exh. 'H'". On July 23, 1931, the Court of First Instance of Gamarines Sur issued an order worded as follows

Considerada la mocionpresentada por el abogado especial del Bur& de Terrenos de fecha 21 del actual y en vista tamhie'n de la conformidad de las partes interesadas, se enmienda la parte que esta entre parentesis de la £&gina 3 de la decision, de tal modo que diga: ("Que es toda la porcionindicada en el piano Exh. 'H' desde la punta de Tinawagan al Norte hasta la linea que aparece en el piano desde Gobgob hasta Caslsrfihan.")"

Rita Garchitorena had appealed to the Supreme Court which, on March U, 1933? rendered a decision reading, in the portions relevant to the present appeal, as follows:

Hermogenes P. Obias stated that some 800 hectares belonged to him as part of the land in question, but it seems quite clear that he had only 300 hectares as appears in the application for a lease given by the Director of lands, and the court below holds that the land leased by the Government to the opponent hermogenes P. Obias is unduly included in the Government's plan. Another portion of 18 hectares was acquired by prescription of adverse possession for over ten years in accordance with the provisions of section hi of the Code of Civil Procedure by a person who sold the portion to Obias, and therefore Obias must be declared owner of the said 18 hectares.

As to the damages claimed by Hermogenes P. Obias in Civil case No. 3638? between himself and Rita Garchitorena, so far as the matter appears, there is not sufficient legal ground therefor, since the evidence did not definitely show whether there was any damage of importance done to the cattle found in the three hundred hectares.

The appealed decision will be entered upholding the herein oppositions filed by the Director of Lands, Hermogenes P. Obias (18 hectares), Ramon and Jose Alvarez (500 hectares), and Januario Alferez (24 hectares), all in accordance with the terms of said decision, and after amendment of the plan PSU-66063 so as to exclude the portions of land pertaining to said opponents, the remaining portions shall be registered in the name of the said applicant, Rita Garchitorena Vda. de Centenera." (58 Phil. 21, 22-23, 26.)

On June 20, 1940, Mariano Garchitorana — who had in the meantime acquired the rights and interest of Rita Garchitorena and Ramon and Jose Alvarez as adjudged in the decision of the Court of First Instance of Camarines Sur of May 14, 1931, and in the decision of the Supreme Court of March 14, 1933, — filed a petition in the Court of First Instance of Camarines Sur for the registration of all the land thus acquired by Mariano Garchitorena after segregating the portions awarded to the various oppositors, dissenting op. among whom was Hermogenes P. Obias and the Director of Lands. To said petition, Hermogenes P. Obias interposed, an objection on the ground that, in the amended subdivision plan attached to the petition, the portion alleged to have been declared public land and which was leased to Hermogenes P. Obias, was represented as containing only 30 hectares, in violation of the decision of May 14, 1931, (Court of First Instance of Camarines Sur) and March 14, 1933, (Supreme Court) under which said portion is alleged to contain some 800 hectares, the area included within the boundaries specified in said decisions. This contention of Hermogenes P. Obias was sustained by the Court of First Instance of Camarines Sur in its order of June 28, 1941, from which the present appeal has been prosecuted by Mariano Garchitorena.

The fundamental question that arises is, what is the area of the portion adjudged to be public land and held in lease by Hermogenes P. Obias which was ordered excluded from the larger tract awarded to Rita Garchitorena (predecessor in interest of Mariano Garchitorena)? It is my firm conviction that said area is only 300 hectares. This is plainly to be drawn from the specific pronouncement in the decision of May 14, 1931, that "Considerando que el terreno tal como fue medido para fines de registro excede ya en muchos cientos de hectareas sobre su extension superficial expresada en el titulo posesorio Exh. 'B' la corte estima que el terreno arrendado por el Gobierno al opositor Hermogenes P. Obias fue en efecto indebidamente comprendido dentro del piano de la

solicitante, pero que en extension, sin embargo, no es va de 800 hectareas como se pretende por este opositor sino unas 300 hectareas solamente tal como consta en la solicitud de arrendamiento Exh. '7.'" This is a definite pronouncement and adjudication that cannot be affected and should prevail over the passage in the decision, relied upon by Hermogenes P. Obias, namely:

"Pero de acuerdo con la prueba del Director de Terrenos y Hermogenes P. Obias, aunque se admite que en gran parte el terreno objeto de la solicitud fue ocupada o poseida primero por el difunto Don Andre's Garchitorea, sin embargo, las porciones reclamadas por este opositor, esto es la porcionarrendada por el del Gobierno antes referida (que es toda la porcionindicada en el piano Exh. "B" desde la punta de Tinawagan al Norte hasta la linea que aparece en el piano desde Casisihan hasta Gobgob) y la otra porcionque ol reclama, jaraas estuvieron en la posesiontanto de la solicitante como del finado Don Andre's Garchitorea, x x x.

First, because the clause within the parenthesis merely refers to the entire portion claimed by opposiiboir Hermogenes P. Obias, as clearly expressed by the preceding "las pprcione.p reclamadas por este opositor". and, secondly, because such recital is followed, in the succeeding paragraph, by the specific factual conclusion "pero que en extension, sin embargo, no es va de 800 hectareas como se pretende por este opositor sjno de unas 300 hectareas solamente." The entire portion claimed is one thing, and the portion actually adjudicated is another. No amount of word juggling can serve to prove that they are the same. If the clause within the parenthesis was intended to fix the area of the portion awarded to Hermogenes P. Obias, there was no sense in further inserting the explicit limitation that the area was not 800, but only 300, hectares.

I cannot see how, as contended in behalf of Hermogenes P. Obias, the order of the Court of First Instance of Camarines Sur of July 28, 1931, could have substantially amended or altered its decision of May 14, 1931 in a way favorable to Obias, because the only change suggested in said order consisted in the fact that the terms "desde Casirohan hasta Gobgob" found in clause within the parenthesis was made to read "desde Gobgob hasta Casisihan" . It should be recalled that the Director of Lands, in his motion of July 21, 1931) already admitted that the area of the land covered by the boundaries mentioned in the original clause within the parenthesis was more than 800 hectares. Hero are the exact words of the motion:

That the terms above-quoted are inconsistent with each other, for while in paragraph six the area of the public land is limited to 300 hectares, in paragraph five the limits stated that is, from Point Tinawagan to Gobgob, comprise more than 800 hectares according to computation.

The Director of Lands had thus called the attention of the Court of First Instance of Camarines Sur to the alleged inconsistency between the area included in the limits fixed by the original clause within the parenthesis and the conclusion "pero que en extension, sin embargo, no es ya de 800 hectareas como se pretende por este opositor sino de unas 300 hecta"reas solamente." And yet, quite obviously, that court allowed that inconsistency to remain. In other words, the situation is this: Both under the original and under the amended clause within the parenthesis, the area purporting to be comprised within the limits therein mentioned is some 800 hectares. As the area actually adjudicated as public land (300 hectares) remained unaltered notwithstanding the motion fof the Director of Lands of July 21, 1931, and the order of July 28, 1931, said adjudication should as control, especially where as hereinbefore stated, the clause within the parenthesis was a mere recital of the allegation of Hermogenes P. Obias. It is manifest that no objection was interposed by the parties to the motion of the Director of Lands of July 21, 1931 because the latter merely prayed for a clarification of the limits of the portion declared public land, without

insisting that said portion ought to be 800 hectares.

That the sense of the decision of May 14, 1931, was to award to Obias only 300 hectares is confirmed by the circumstance that the Court of First Instance of Camarines Sur disallowed Obias' claim for damages "por la falta de precision en las pruebas sobre si los vacunos fueron echados de este radio de 300 hecta1reas o dentro de las 500 hectdreas de mas que reclama el opositor y que justamente segun los terminos de esta decision estan comprendidos dentro del terreno comprendido en el titulo posesorio Exh. 'B'". If further support is necessary, it is sufficient to refer to the decision of the Supreme Court of March 3, 1933, in which the following categorical pronouncement was made: "Hermogenes P. Obias stated that some 800 hectares belonged to him as part of the land in question, but it seems quite clear that he had only 300 hectares as appears in the application for a lease given him by the Director of Lands."

The rule that where there is a conflict between the area and the boundaries, the latter must prevail, cannot be invoked, for the simple reason that the area herein involved was a plain matter of adjudication, and was not intended merely as a description.

I vote to reverse the appealed order by directing the exclusion from the title sought by Mariano Garchitorena an area of only 300 hectares as being public land held in lease by Hermogenes P. Obias.

BENGZON, J.:

I concur in the above dissent.

Order affirmed.

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