

JUANA GOLINGCO, ET AL., PLAINTIFFS AND APPELLANTS, VS. CONCEPCION PEÑA, DEFENDANT AND APPELLEE.

G.R. No. L-24455. April 30, 1965

Ponente: DIZON, J.

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DIZON, J.:

This is an appeal taken to the Court of Appeals from a final order of the Court of First Instance of Albay approving the report submitted by the Commissioner appointed for the relocation of parcels 2 and 4 described in paragraph 2 of the complaint, and parcels A and B described in paragraph 5 of the amended complaint. The Court of Appeals, however, certified it to Us on the ground that the issues involved are purely of law.

The record discloses that appellants' contention is that they sold to appellee only 16 hectares of their property at P100.00 per hectare. It is their contention in this appeal that the Commissioner who did the relocation should have determined and should have stated in his report the area of the land actually occupied by appellee Concepcion R. Peña, so that the execution of the revived judgment may be exactly in accordance with the sale made by appellants in favor of appellee and, the Commissioner not having done so, the lower court should not have approved his report.

We find appellants contention to be without merit.

While it is true that their answer claimed that they sold only 16 hectares to appellee, the decision of the lower court is silent upon the matter. Moreover, said decision clearly states that in the joint petition submitted by the parties to said court, appellants had expressly recognized "the possession and ownership (of appellee) of the lands as alleged in the complaint and as expressly admitted to have been in her possession in paragraphs 8 and 10 of the answer filed by Atty. Isidro A. Vera" (see record on appeal, pp. 4 and 5).

As it is not denied that what was relocated by the Commissioner were the lands actually in possession of appellee at that time, we consider it unnecessary for his report to state the area thereof. The relocation, as made, is now undoubtedly sufficient to prevent any encroachment by appellee upon the remaining lands of appellants—as we suppose was the purpose of the relocation.

WHEREFORE, the ordered appealed from is affirmed, with costs.

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

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