

**ILDEFONSO TAMBUNTING, APPLICANT AND APPELLANT, VS.
CARMEN MANUEL ET AL., OBJECTORS AND APPELLEES.***G.R. No. 10366. December 12, 1916*

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10366/>**MORELAND, J.:**

The Court of Land Registration found that the applicant was the owner of the property described in his application for registration and entered a judgment to that effect. No formal decree of registration was made or filed. Some three months later the heirs of Mariano Manuel came into the case for the first time and made a motion that the judgment of the Court of Land Registration be vacated and set aside and that there be excluded from the land which the applicant was entitled to have registered under the judgment three parcels of land described in said motion.

The grounds of the motion are that these parcels of land were included in a Torrens title obtained by the moving parties in the year 1905.

The motion was duly heard. No evidence was offered in support of the motion by the moving party; but the Court of Land Registration, of its own motion and in accordance with the provisions of law, asked the surveyor of the city of Manila in which the land in question was located to make a report upon the claim of the moving parties. In pursuance of that order the surveyor of the city of Manila made the following report:

"Complying with the order of the court dated June 19, 1914, the undersigned has the honor to submit the following detailed report, as to the manner in which he reached the conclusion that the lots 2, 3, and 10 of plan 11-8716, attached to the above-numbered case, had been included in the decree issued in the adjoining case No. 1668:

"1. The undersigned, in order to come to a clear understanding of the matter, has made a personal investigation on the ground, and it was found impossible to locate the lands registered in case No. 1668 in accordance with the tie-lines indicated on the plans attached to the folios 6 and 10 of that case, inasmuch as the old street line of Calle Azcarraga had been entirely obliterated, and it was therefore necessary to compare the distances given on the said two plans with actual conditions (houses, walls and monuments), as they exist on the ground, in order to determine some base from which measurements could be taken for the purpose of locating the lands registered in case No. 1668.

"2. From personal inspection the undersigned found existing on the land registered in case 1668 the wall of a house extending from pt. 2-3 of the plan in said case (folio 6), which wall evidently was in existence at the time the survey and plan in the aforesaid case were made. This conclusion was reached by the undersigned; first, from the fact that the wall appears to have existed for many years, and second, from the fact that the distance measured along the said wall from one extreme to the other (including the reinforcement pillar situated at the north end of the wall) coincides almost exactly with the distance marked on said plan. The distance of the wall and pillar is actually 0.22 m. shorter than the distance marked on the aforesaid plan, but this discrepancy is accounted for by the fact, plainly apparent, that said reinforcement pillar at pt. 2 has been

shaved off recently, in order to permit the construction of the new building erected on the land described in case 9577, Ildefonso Tambunting, applicant. If now the wall running along the south side of the property from point 3 of said plan be taken as correct, it is found that, in accordance with the distance given on said plan, lot 2 of the plan in case 9577 falls entirely within the land registered in case 1668. Furthermore, lot 2, in dispute, includes the reinforcement pillars of a wall that appears to be many years old, extending along the boundary line of the two properties, and the outer lines of these pillars coincide with the shape of the corresponding lines marked on plan in case 1668. As to the other lots 3 and 10, while they appear to have been included in the description of plan in case 1668, folio 10, as determined by the distance marked thereon, yet as the said old plan is undoubtedly defective, and as it shows that the north limit is the wall of a house consisting of accesorias, still in existence, the undersigned believes that the wall of the building should govern, and that the decree in case 1668 can not be said to cover lots 3 and 10, although the erroneous distance marked on the plan would include them.

"3. The plans filed in case 1668 are undoubtedly defective, but it is the opinion of the undersigned that they must be given credit in as far as they correspond with actual marks (walls, houses and monuments) on the ground.

4. It is the firm opinion of the undersigned that lot 2 of the plan filed in case 9577 was included in the decree issued in case 1668, but that the lots 3 and 10 were not, and the former reports, submitted by the undersigned, are hereby amended."

No evidence was offered by either party. Upon this report alone the Court of Land Registration found that the description of the property, sought to be registered by the applicant in this case and declared to be his by the judgment of the court, included one of the lots title to which had already been registered by the moving parties, but not the other two. He accordingly modified his original judgment and excluded therefrom one of the lots mentioned in the moving papers. From this order and the judgment and decree entered thereon the applicant appealed.

Several questions are raised by the appellant but we find it necessary to consider only part of them.

Appellant claims that the court erred in opening the judgment declaring applicant the owner of the land described in his application on the ground that it had become final and that it could not be opened except upon the grounds stated in section 38 of Act No. 496. We hardly think this is tenable. Section 38 and the other sections of the Torrens Law (Act No. 496) make a clear distinction between a judgment declaring the applicant the owner of the land as against any respondent who may be opposing the registration of the title thereto, and the decree of registration. Section 38 declares that it is the decree of registration which becomes final except for the purposes specified therein. While the two may be joined into one, and that may be the practice in general, the court in the present case separated the declaration as to ownership of the land and the decree of registration, entering the first but not the second. Whether we look at this question as did the Court of Land Registration or whether we look at the declaration of ownership and the decree of registration as one act, the result is the same; for, if it is one act, it was not completed by the court as it did not decree the registration of the land. If they are separate acts which may be properly disassociated, then the court had power to open his declaration of ownership as the proceeding was still pending and undetermined. If it may be said that the two acts should be combined into one then only one act had been fully performed, there remaining yet to be made and entered the decree of registration which, of course, is equally important with the declaration of ownership, and constitutes the final step in the proceeding.

There is no doubt about applicant's ownership of the land described in his application. It included the three lots in controversy unless it was shown to the satisfaction of the court upon proper evidence that title to said lots had already been registered in the name of the moving parties. It was the duty of the moving parties to present evidence sufficient to sustain their contention if they expected to succeed in their motion. The burden of proof

was on them to show the inclusion, the Court of Land Registration having already held upon sufficient evidence, which nobody disputed at the time, that the lots in question were owned by the applicant. The moving parties, however, presented no evidence themselves. They relied, as did the court, exclusively upon the report of the surveyor above set out.

An examination of that report, accepting it as proper evidence, demonstrates to our satisfaction that the appellant is right in his contention that the facts stated therein are insufficient to warrant the declaration that the applicant is not the owner of the lot excluded by the court. The moving parties were not in a better position than they would have been if they had appeared as respondents in the original action and opposed the registration of the three lots on the ground stated as the basis of their motion. In such case the applicant having presented evidence showing clearly his ownership of those lots it would have been the duty of the respondent to offer evidence overcoming the claim of ownership thus established by the evidence. If they failed to do so the applicant would have been entitled to the registration of the title to the lands the ownership of which he had thus proved. The same obligation lay upon the moving parties when they made their motion. It was their duty to overcome the evidence of the applicant by showing by a fair preponderance of the evidence that the lots in question were actually included in a Torrens title theretofore obtained. The evidence of the surveyor is inadequate to that end. He admits that he is unable to locate the lines or the points necessary to be established in order to determine whether the lots in question were included in the original Torrens title or not. He admits that the plan filed in respondents application for a Torrens title was defective. His conclusion, therefore, that Lot No. 2 was included in the Torrens title of the respondent is based largely upon assumption. He reaches the result attained by argument and not by evidence. As we have stated he admits that the facts upon which the determination of the question in hand must be based do not exist; but he seeks to remedy the difficulty by substituting argument in place thereof. He rests upon assumed facts and says that, if certain things are true, then the probabilities are that lot No. 2 is included in the moving parties' Torrens title; but whether those things are true or not he does not undertake to say.

The applicant having shown unquestionable title to the lots in question the evidence before the court was not sufficient to overcome that title.

The order and judgment appealed from are reversed and the case is returned to the Court of Land Registration with instructions to deny the motion and to proceed with the case in accordance with law. So ordered.

Torres, Carson, and Araullo, JJ., concur.

Trent, J., concurs in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.