

FELICIANO ABAD, ET AL., PETITIONERS, VS. THE GOVERNMENT OF THE PHILIPPINES (THE DIRECTOR OF LANDS), RESPONDENT.*G. R. No. 10676. March 29, 1958*

Ponente: BAUTISTA ANGELO, J.

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On April 23, 1924, the Court of First Instance of Nueva Ecija ordered the subdivision of lot No. 2959 of the Cuyapo cadastre into Lots Nos. 2959-A and 2959-B, the first lot having been declared public land and the second having been adjudicated to the owners of the Hacienda Esperanza. This order was affirmed on appeal by this Court on March 10, 1925, the decision declaring that the demarcation line between the portion belonging to the Hacienda Esperanza and that belonging to the public domain is a straight line drawn from point M-3 to point M-20 of the plan marked Exhibit H (Government of the Philippines vs. Abad, 47 Phil., 573).

Shortly after the decision became final, Lot No. 2959 was surveyed by cadastral surveyors Felix Mateo and Juan Justiniano, by authority of the Director of Lands, for the purpose of subdividing it in accordance with the terms of the decision, after which the subdivision plan prepared on the basis of their survey was submitted to the Director of Lands for his approval.

On May 7, 1926, the Director of Lands approved the subdivision plan and sent copies thereof to the Chief of the General Land Registration Office who submitted them to the court of first instance having jurisdiction over the Cuyapo cadastre with the request that final decree of registration be issued for Lots Nos. 2959-A and 2959-B as recommended in the subdivision plan. On November 24, 1930, the court approved the subdivision plan as requested and ordered the issuance of the final decree of registration for Lot No. 2959-A in favor of the Government and for Lot No. 2959-B in favor of the owners of Hacienda Esperanza. Accordingly, the Chief of the General Land Registration Office issued Decree of Registration No. 2253 on December 15, 1930 in favor of said owners and on the basis of such decree Transfer Certificate of Title No. 4914 was issued in their favor on January 14, 1931. Thereafter, the Government sold Lot No. 2959-A to Manuel Alzate and Emilia de Alzate in whose favor Original Certificates of Title Nos. 98 and 152 were issued.

On November 20, 1951, or about twenty-one years after Decree No. 2253 was issued on December 15, 1930, the Director of Lands filed a petition in the same cadastral proceedings praying that a relocation be authorized of monument M-20 of Lot No. 2959 which was declared to be the demarcation line between the portion belonging to the Hacienda Esperanza and that belonging to the public domain' as declared in the decision of this Court rendered on March. 10, 1925. The court, then presided over by Judge Jose Bonto, laboring under the impression that the aforesaid decision of this Court has not yet been executed, although more than twenty-five years had elapsed since it was rendered, issued an order authorizing the relocation prayed for. This was undertaken by Zacarias Gatchalian, district land officer of Nueva Ecija, who submitted to the Director of Lands his report and the subdivision plan made by him as a result of the relocation. Said report and plan were later submitted to the court for approval. This petition was opposed by the owners of Hacienda Esperanza.

After the case had been heard on the merits, the court, Judge M. Mejia presiding, denied the petition in an order issued on January 29, 1953. The Director of Lands appealed from this order, and on April 18, 1956, the Court of Appeals rendered a decision setting aside the order and reserving to said Director the right to file a petition under Section 112 of Act No. 496 for the correction of the Decree of Registration No. 2253 and the Transfer Certificate of Title No. 4914 issued in favor of the owners of Hacienda Esperanza in line with the decision rendered by this Court on March 10, 1925. This case is now on appeal by certiorari before this Court pursuant to Section 1, Rule 46, of the Rules of Court.

The petition which gave rise to this appeal is the one filed by the Director of Lands on November 20, 1951 before the Court of First Instance of Nueva Ecija which has jurisdiction of the Cuyapo cadastre praying that a relocation of monument M-20 of Lot No. 2959 be authorized on the ground that a mistake was made in the original survey which resulted in the improper transfer of some 2,000 hectares of public land to the owners of Hacienda Esperanza. And the Court of Appeals ruled that this relocation and correction can be undertaken under Section 112 of the Land Registration Law. Is this ruling correct?

Counsel for petitioner contends that this cannot be done because (1) said section 112 only authorizes the correction, modification or amendment of a certificate of title or of a memorandum thereof, and not of a decree of registration; and (2) the only grounds under which the correction, amendment or modification of said certificate of title or memorandum may be made are those mentioned in said section 112, which do not include the mistake allegedly committed in the relocation of monument M-20 which resulted in the transfer to petitioner of a substantial portion of public land.

Section 112 above referred to provides:

"Sec. 112. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of memorandum hereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, or grant any relief upon such terms and conditions, requiring security if necessary, as it may deem proper; Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent.

"Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered."

We agree with counsel for petitioners that the alteration or amendment authorized in Section 112 of the Land Registration Act can only refer to a certificate of title or to a memorandum thereof, and not to a decree of registration, for otherwise a contrary interpretation would have a derogatory effect upon Section 38 of the same law which provides that "Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section" (referring to legal encumbrances), that "it shall be conclusive upon

and against all persons including the Insular Government and all the branches thereof," and that after the decree becomes final, it cannot be reopened except only' by reason of fraud when the interested party may file a petition for review within one year after the entry of the decree provided no innocent purchaser for value has acquired an interest. It is also provided in said Section 38 that "Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible." (Italics supplied.)

Indeed, it is held that "when once a decree of registration is made under the Torrens system and the time has passed within which that decree may be questioned, the title is perfect and cannot later be questioned" (Reyes and Nadres vs. Borbon and Director of Lands, 50 Phil., 791; Italics supplied). And as it was aptly said, "No rule is better settled in this jurisdiction than one which prohibits the changing, altering or modification of a decree in a land registration proceeding under the Torrens system after the lapse of one year" (Director of Lands vs. Gutierrez David, 50 Phil., 797; Italics supplied).

The mistake which is now advanced as basis for the relocation is not a mistake committed in entering the certificate of title issued in favor of the owners of the Hacienda Esperanza which may be the subject of correction under Section 112. It is merely a mistake committed in the survey which served as basis of the decree of registration pursuant to which the title was issued for, unquestionably, the alleged mistake, if any, was committed by the former surveyors of the Bureau of Lands who undertook the survey of Lot No. 2959 with a view to its subdivision in line with the decision of this Court rendered on March 10, 1925. And this is the mistake which said Bureau now attempts to correct about twenty- one years after said decree had become final, which as we have stated, can no longer be questioned, the same being under the law incontrovertible (Section 38, Land Registration Act).

This case is on all fours with that of Lichauco, et al., vs. The Director of Lands, et al., 70 Phil., 69. In that case, the Hacienda El Porvenir was the subject of registration proceedings commenced on January 20, 1903. The decision of the court adjudicating registration in the name of the applicants was confirmed by this Court on May 5, 1906, and one year from this date, the judgment became final. After the decision became final, the corresponding decree and title were issued in favor of the applicants. On October 18, 1912, the Director of Lands filed a petition praying that a new survey of the land be made and a new certificate of title issued in conformity thereto. The new survey was made by surveyor Zoilo Garcia who prepared plan Psu-17590 and the corresponding technical description. These plan and description were submitted to the General Land Registration Office for approval. After this plan was amended, the same was submitted to the court for approval and it was approved on March 1, 1923, the court setting aside its previous decree and cancelling all the certificates of title issued pursuant thereto. Then new titles were issued in accordance with the new decree. On February 15, 1932, Cayetano Corpuz, et al., filed a motion praying that all subsequent proceedings be declared null and void for being contrary to law. The court acceded to this motion and its resolution was affirmed by the Supreme Court. Subsequently, on August 7, 1934, the heirs of the original applicants again filed a motion in the same registration proceedings praying for the approval of the same plan prepared by Zoilo Garcia, as amended, and for the issuance of a new decree in connection therewith, which was opposed by the Director of Lands for, if the amendment were allowed, it is claimed, there would be a difference of more than 291 hectares that would accrue to the benefit of petitioners. In holding that such amendment can no longer be made under Section 112 of the Land Registration Act, this Court made the following pronouncement:

"Section 112 recognizes and permits the correction of an error of closure, 'provided such correction does not include lands not included in the original petition.' (Roxas vs. Enriquez, 29 Phil., 03.) Otherwise, the doctrine of the conclusiveness and legal indefeasibility of a Torrens title would be a meaningless verbiage. It is admitted by the appellees in their brief that a variance in the total area exists between the Garcia plan and the Rocafull plan. (Brief for Appellees, Attys. for the Heirs of Lichauco, p. 23; pp. 167-169, 175-176, 178-180,

and p. 881, t.s.n.) In the Rocafull survey the area given is 2,705 hectares, 68 ares and 49 centares, whereas in the Garcia survey Plan Psu-17590 (Exhibit E-1) the area given is 2,997 hectares, 48 ares and 56 centares, or a difference of 291 hectares, 80 ares, and 70 centares in favor of the appellees (Lichauco vs. Heirs of Cayetano Corpuz, G. R. No. 39512). The court below in its decision admits the existence of a discrepancy. (Decision, pp. 261-262, Bill of Exceptions.)

"We are of the opinion that, even if there really existed an error of closure as claimed, the court below was without authority to entertain, much less grant, the petition of August 7, 1934. The approval of Plan Psu-17590 as amended would authorize not only the inclusion of land of the public domain which some seventy free patent applicants have been authorized to occupy but also a reopening of a decree of registration long closed and settled. It is well settled that after the issuance of the decree of registration of a land upon which a judgment has become final, no error can be corrected any longer regarding the area of the land. (Manlapas & Tolentino vs. Llorente, 48 Phil., 298.) It seems clear, therefore, that what the lower court has attempted, and in fact accomplished, was not the correction of an error of closure, but a retrial of the case and the subsequent approval of an entirely new decree of registration. This is not permissible."

The plea is made that, if the relocation is not allowed and the error should continue, a great injustice would be caused to the Government because it would stand to lose around 2,000 hectares which would unjustly accrue to the benefit of the owners of the Hacienda Esperanza. If this claim is substantiated, it would indeed turn the scale of equity in favor of the public domain, but there is a serious doubt as to its validity considering that the new survey is merely based upon the report of Zacarias Gatchalian, as opposed to the report of two public land surveyors Felix Mateo and Juan Justiniano. The trial court found that Gatchalian's report was devoid of probative value because it was prepared in an arbitrary manner and based merely on hearsay-evidence. Thus, the lower court on this matter made the following pronouncement:

"After a thorough examination of Gatchalian's report, and the plans attached thereto, the Court feels that the same is not of much probative value to sustain the contention of the Director of Lands. The plans attached thereto were prepared in a more or less arbitrary manner, relying mostly on information furnished by alleged residents of the locality and on bearings and distances of old Spanish title of the Hacienda Esperanza which are admittedly erroneous (Domingo vs. Santos, Ongsiaco, Lim y Cia., 53 Phil., 361). Also, although the order of the court for the relocation was directed to the Director of Lands, Gatchalian's report was not submitted by the latter to this court. Furthermore, by Gatchalian's own testimony, the plans Exhibit C-2 and C-3 are inaccurate when he stated that point '47' is a clerical error and should be '42'. Lastly, Gatchalian's admission that in preparing the relocation plan, he did not take into consideration and plan marked Exhibit H, used in the original registration of the land, and that he did not make any attempt to reconstruct the records of the Cuyapo Cadastre where the technical description of lot No. 2959 could be found, and that he was not aware of the fact that title had already been issued for Lots. Nos. 2959-A and 2959-B, which he could have used in the relocation survey conducted by him."

Wherefore, the decision appealed from is reversed. The order of the trial court issued on January 29, 1953 is hereby revived and given force and effect. No pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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