

JOSE P. HENSON, PETITIONER AND APPELLANT, VS. THE DIRECTOR OF LANDS AND THE COMMANDING GENERAL OF THE DIVISION OF THE PHILIPPINES, OPPONENTS AND APPELLEES.*G.R. No. 10812, March 26, 1918*

Ponente: STREET, J.

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In the year 1904 an application (No. 466) was filed by Pedro Pamintuan and others in the Court of Land Registration asking that certain real property located at Bulu, in the barrio of Santa Catalina, pueblo of Angeles, Province of Pampanga, be registered in conformity with the provisions of the Land Registration Act. Opposition in due form was made by the military authorities in the Philippines on behalf of the United States of America, on the ground, among others, that part of the land was located within the bounds of a military reservation. The Solicitor-General also appeared for the Government of the Philippine Islands and likewise opposed the registration of said land. This application remained pending in the Court of Land Registration for several years, in the course of which Mariano Vicente Henson and his wife Maria Asuncion Leon y Santos were substituted as parties in place of the original applicants. The application was first decided favorably to the applicants, but this judgment was reversed by the Supreme Court upon appeal; and the cause was remanded for further proceedings, with leave to present an amended application and new plan, with a view to establishing the boundaries of 92 hectares of which the court declared they were owners. The cause was then heard again upon additional proof in the Court of Land Registration. The court came to the conclusion that the parcel of which the applicants were supposed to be the owners could not be identified and that no part of the land included in the application could be registered in their names. Judgment was accordingly entered, upon October 29, 1909, dismissing the application. Several months later the applicants made an ineffectual attempt by motion to have the judgment opened in order that they might present still further proofs of their title. No appeal was taken by the applicants either from the final judgment or from the judgment disallowing the motion.

Upon October 20, 1912, Jose P. Henson filed his application in the present proceedings, praying that the land which had been the subject of the former proceeding should be registered in his name. It appears that the title which he asserts is derived by transfer from his father. The Commanding General, Philippines' Division, in due time appeared as opponent on behalf of the Government of the United States, as did also the Director of Lands, on behalf of the Government of the Philippine Islands, each being represented by the Attorney-General. The opposition of the Commanding General is primarily based on the contention that part of the property mentioned in the application lies within the boundaries of the old Military Reservation No. 10 and that no claim had been filed with respect to this land within the period fixed by law for the presentation thereof. In the opposition of the Director of Lands reliance is chiefly made upon the undisputed fact that the land which is the subject of the application is the same as that which was involved in Expediente No. 466 of the Court of Land Registration, to which reference has already been made, and that the predecessors in interest of the present applicant were the applicants in said proceedings when final judgment of dismissal was rendered therein. This opponent accordingly

in his opposition relies upon the judgment therein entered as a bar to the present proceeding.

When the cause came on to be heard on its merits on February 4, 1913, the applicant presented his proofs of title, consisting of numerous documents and a voluminous mass of oral testimony. When the plaintiff rested, the Attorney-General in representation of the opponents moved the court to dismiss the application on the ground, already suggested, that the adjudication in Expediente 466 was a bar to the proceedings. Said motion was sustained, and by order dated October 24, 1913, the application for the registration of the land was dismissed. From this action of the court the applicant appealed.

The case raises the simple question whether the judgment of the court in dismissing an application for the registration of land operates to debar the unsuccessful claimant and persons deriving title under him from renewing the application later in a different proceeding; or stated in another way, does such a judgment constitute *res adjudicata* as between the applicant and a person who has successfully opposed the application? We hold that it has no such effect.

The fundamental reason why the judgment dismissing an application to register land can not operate as an estoppel between the applicant and his opponent is that, in such a proceeding, no contentious issue is made between the parties. In the inception of the proceeding no adversary is named as defendant or brought before the legal tribunal to respond to the demand. If any adverse party, claiming to be the owner, sees fit to appear as opponent and contest the registration of the land, he is permitted by law to intervene, not so much for the purpose of showing that he is owner as to demonstrate that the applicant is not. He asserts his claim in a written statement, called the opposition, to which the applicant makes no formal reply. As was observed in the *City of Manila vs. Lack* (19 Phil. Rep., 324, 334), no joinder of issue by even so much as a general denial is permitted.

The first condition of the conclusiveness of a judgment between two litigants is the existence of a contentious issue formulated directly between them. A judgment, or decree, is nothing unless it is based upon and supported by the issues made in the pleadings. In a certain sense there is, of course, a litigious controversy between the applicant and any person who opposes him in a proceeding to register land, since they, or their lawyers, engage in disputatious harangues, and their external attitude towards each other is in all respects the same as that of opposing litigants in ordinary actions. But when reference is had to their technical relations a difference is noted, which is, that in proceedings to register land the petitory address of each party is directed to the court as auditor, and no direct relief is sought against his adversary. It results that as between the parties there is a total absence of any technical issue.

A perception of this fact has resulted in the establishment of the proposition that the opponent cannot in the same proceeding obtain the registration of the property in his own name, though he should completely disprove the title of the applicant and clearly show ownership in himself. (44 Cyc, 603.) To secure such relief, he must, so it is held, become an affirmative actor by filing a separate application himself. (*Tecson vs. Corporacion de los PP. Dominicos*, 19 Phil. Rep., 79.) The inability of the court to entertain a cross-complaint and decree affirmative relief to the opponent conclusively shows that the parties are not legal adversaries in the true sense; and therefore, the dismissal of the proceedings cannot operate as *res adjudicata* against the unsuccessful applicant.

Two cases heretofore decided by this court may be referred to as tending to establish the conclusion announced in this opinion. In the *City of Manila vs. Lack* (19 Phil. Rep., 324), it appears that the Court of Land Registration, in decreeing the registration of a parcel of land, had excluded a strip for the reason that it was owned by the opponent, and this fact was stated in the decree as the reason for its exclusion from registration. It was held that this adjudication did not constitute *res adjudicata* in favor of the opponent nor create even the slightest evidence in his favor which could be used by him in an action of ejectment to recover the property. Upon reference to the

facts of this case it must be apparent that the Court of Land Registration clearly had jurisdiction of the proceeding, of the parties, and of the subject-matter; and the ownership of the strip in question was an integral part of the very matter in controversy. In fact every element necessary to supply the basis of a conclusive determination as between the parties was present except an issue expressed in adversary pleadings. In the case of the Roman Catholic Archbishop of Manila vs. Director of Lands and others (35 Phil. Rep., 339), this court held that an applicant for the registration of land had the right to withdraw his application or present a new one after the entry of a judgment denying registration, although no application to withdraw the original application was ever made and the judgment denying registration did not purport to be made without prejudice.

Section 37 of the Land Registration Act (Act No. 496) contains a provision to the effect that a decree dismissing an application may be ordered to be made without prejudice. From this it is argued that a dismissal in general terms, without the saving words, must be regarded as an absolute bar to another proceeding. This would undoubtedly be the correct inference from that language as applied to ordinary actions, but the same conclusion is not appropriate in a proceeding where it is wholly beyond the power of the court to make a prejudicial dismissal in any event. The omission from the decree of the words "without prejudice" is therefore immaterial.

We are not insensible of the fact that weighty considerations may be adduced in favor of the proposition that a matter once litigated should not again be drawn in question between the same parties. Interest rei publicae ut finis si litium. This saying is undoubtedly well supported by experience, and no judicial tribunal will lightly ignore its precept. It is believed, however, that when reference is had to the purposes and practical application of the Land Registration Act, considerations of public interest will be found largely to preponderate in favor of the doctrine announced in this decision. To hold that a decree dismissing an application for the registration of a parcel of land precludes the applicant and his successors in interest from ever afterwards renewing the application, if the party who opposed the original proceeding or his successors see fit to make further objection, would lead to consequences much impairing the usefulness of the system of registration created by said Act

In passing upon applications of this character the courts are constantly compelled to deny the registration of titles which are comparatively good though technically imperfect; and it is important that as defects are cured by the effluxion of time or discovery of new evidence, the owners, usually the persons in possession, should again present their titles for registration. Rare abuses may possibly occur, and sometimes a disappointed litigant, not having possession, may maliciously harass the occupant of a coveted parcel of ground. This inconvenience, or danger, in our opinion by no means offsets the beneficial results to be attained by encouraging owners to bring their land under the operation of the land registration law with all convenient dispatch. Of course no one could question the right of a person to renew his application upon acquiring a new title; and we now hold that the application can be renewed notwithstanding the applicant stands upon the same title that was previously rejected.

If the case should occur where a person in possession finds himself unreasonably molested, he will sometimes be able to meet the difficulty by filing an application for the registration of the land in his own name; and where this is not practicable, relief might possibly be found in an injunction against repeated vexation.

From what has been said it is apparent that the court below was in error in sustaining the motion of the opponents to dismiss the application and in refusing to determine the case on its merits. Judgment must therefore be reserved, with costs of this instance de officio, and the case will be remanded for further proceedings in conformity with law. So ordered.

Arellano, C. J., Torres, Johnson, Carson, Araullo, and Fisher, JJ., concur.

DISSENTING OPINION

MALCOLM, J., dissenting:

Nearly every one recognizes certain ideals of the law extremely difficult of attainment, but which, if the law is to be properly administered, must always be kept in view. One such ideal encourages citizens to avoid litigation and to settle their controversies amicably. Another emphasizes the wisdom, when parties once elect to appear before the courts, of expediting proceedings. And another ideal, a paramount principle of all jurisprudence, is that there should be an end to litigation. Feeling that the decision herein infringes on these basic policies of the law, I have felt it my duty to set forth briefly the reasons for my dissent.

There is no question as to the facts. Application was made in 1904 in the Court of Land Registration of the registration of certain land. Opposition was entered. After a trial on the merits extending over five years and after appeal to the Supreme Court, the lower court dismissed the application for the reason that the applicants did not have proper title for registration. About a year thereafter, a petition for a rehearing was made on the ground of newly discovered evidence. Said petition was denied on two grounds: First, because the applicants had had ample opportunity to introduce their evidence; and second, because the decision constituted a final adjudication of the case. Still later, a second application was made, praying that the land which had been the subject of the former proceedings should be registered in the name of the applicants. It is this second application which the Honorable Manuel Camus, judge of first instance, dismissed, but which this court would now permit to be heard. I anticipate if it were the third or the one hundred and third application and if forty-four instead of four judges of land registration had decided otherwise, the decision would be the same.

The Land Registration Law (Act No. 496) established a court "with power to hear and determine all questions arising upon such applications." Section 37 of the same Act is as follows:

If in any case the court finds that the applicant has not proper title for registration, a decree shall be entered dismissing the application, and such decree may be ordered to be without prejudice. The applicant may withdraw his application at anytime before final decree, upon terms to be fixed by the court."

These provisions of the law in connection with the land registration system, if they mean anything, mean that a proceeding for the registration of land is a lawsuit. There is a contentious issue between the applicant and the opponent, or between the applicant as against the world. The applicant says, "I am the owner." The opponent says, "You are not the owner." The applicant is permitted to withdraw his application any time before final decree. If he does not take advantage of this right, he is estopped thereafter as he would be in any other action from annoying the courts and other parties with frivolous litigation. The decree when entered has the same finality as any judgment unless it contains the words "without prejudice."

The judgment is made a bar on principles of public policy. The peace and order of society requires that a matter once litigated should not again be drawn in question between the same parties. Human life is short. *Ne lites sint immortales, dum litantes sunt mortales*. The courts carry a heavy burden under the most favorable circumstances. Many individuals add to that burden the gratification of a litigious disposition. Other individuals would impose their will or neglect. Justice is at most approximate. Rightfully, if possible, but rightly or wrongly, there should be an end to a controversy. In the well chosen words of a court of higher jurisdiction:

"This general rule is demanded by the very object for which civil courts have been established, which is to secure the peace and repose of society by the settlement of matters capable of judicial determination. Its enforcement is essential to the maintenance of social order; for the aid of judicial tribunals would not be invoked for the vindication of rights of person and property, if, as, between parties and their privies, collusiveness did not attend

the judgments of such tribunals in respect of all matters properly put in issue and actually determined by them." (Southern Pac. R. Co. vs. United States [1897], 168 U.S., 1.)

Just as sound reasons for the application of the principle of res adjudicata exist in connection with land registration cases as exist in connection with any other cases. The main purpose of the Land Registration Law is to quiet title once and forever. "Its object is to establish and declare the title to land as against the defendants, and to obtain a decree which shall, be a starting point for the statute of limitations; and in this it does not differ from any other suit in the nature of a suit to quiet title." (Niblack, Torrens System, 46.) If a person can constantly be permitted to renew an application once defeated, the burden on the courts, the harassing of litigants, and the unsettled nature of titles in the Philippines, will be beyond comprehension. On the contrary, from the provisions of the law above quoted, and in accordance with the authority of adjudicated cases, it necessarily follows that a decree of the former Court of Land Registration dismissing an application after a trial on the merits, if not appealed from, and unless ordered to be without prejudice, is final and conclusive upon the issues raised, or which could have been raised, by virtue of such application.

Agreeable to the foregoing, judgment should be affirmed.

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