

THE ROMAN CATHOLIC ARCHBISHOP OF MANILA, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS, GREGORIA FAJARDO ET AL., OBJECTORS AND APPELLANTS.

G.R. No. 11033. November 20, 1916

Ponente: TORRES, J.

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TORRES, J.:

This appeal by bill of exceptions was raised by the legal representative of the Director of Lands and by counsel for Gregoria Fajardo and 32 objectors from the judgment of March 26, 1914, whereby the Court of Land Registration overruled the objection of the objectors-appellants to the registration of two parcels of land situated in the sitios of Mabolo and Daquila, barrio of Santa Isabel, pueblo of Malolos, Bulacan; declared the petitioning corporation, The Roman Catholic Archbishop of Manila, to be the owner of the said two parcels of land, and ordered the registration thereof in the name of the said petitioner.

On November 30, 1909, counsel for The Roman Catholic Archbishop of Manila, a corporation sole represented by Mgr. J. J. Harty, applied to the Court of Land Registration for the inscription in conformity with law of four parcels of land, to wit: one parcel situated in the sitio of Mabolo, barrio of Santa Isabel; another parcel in the sitio of Daquila of the same barrio of Santa Isabel; another parcel in the sitio of Gatmuala of the barrio of Ligas; and, finally, another parcel situated in the sitio of Murasan of the barrio of Ticay, all of which parcels of land being in the district of the pueblo of Malolos, Province of Bulacan (pp. 1-3, record of Land Reg. Case No. 6360). Against this application adverse claims were filed by the parties hereinbelow named, who alleged that for the periods likewise mentioned below, they had, as owners, been in quiet and peaceable possession of their respective parcels of land which were contained in the tracts of land situated in the sitios of Mabolo and Daquila of the barrio of Santa Isabel: Rosa Roberto, five parcels of land, for a period of 60 years; Francisco de Jesus, one parcel for 50 years; Tranquilino Lucero, four parcels; Marciana Agustin, two parcels; Marciano Centeno, three parcels; Felix Teodoro, one parcel; Pascual de la Cruz and Gregorio Fajardo, each also one parcel; all of the six parties last-named for a period of 30 years; Ignacia Estrella and Raymundo de la Cruz, two parcels for a period of 25 years; Valentin Pablo, three parcels for a period of 24 years; Hermogenes Centeno, one parcel for a period of 23 years; Matias Arcega and Lorenza Navarra, each two parcels for a period of 22 years; Policarpio San Antonio, two parcels, and Basilio Teodoro, one parcel for a period of 20 years; Isabelo Centeno, one parcel for 19 years; Isidro Teodoro, two parcels for 13 years; Anastasio de la Cruz, two parcels for 17 years; Lorenzo Centeno, two parcels; Feliciano de la Cruz, also two parcels; Mamerto Benedict, one parcel; Eulalio Roque, one parcel, and Julio de la Cruz, another parcel, all of the five last-named for a period of 15 years; Alejandro de Robles, 3 parcels for a period of 13 years; Martin de Jesus, one parcel all his life; Telesforo Centeno, two parcels; Macario Teodoro, one parcel; Jose Ignacio, also one parcel, and Clemente Estrella, two parcels, with no statement as to the period of possession. (Statement contained in the judgment in case No. 7375. See second file of the record in case No. 6360, presented in evidence, especially page 490 et seq.)

All the adverse claims filed by the occupants of these lands were disallowed and the Court of Land Registration

on April 29, 1911, decreed the registration and adjudication of the four parcels of land applied for. An appeal was taken, and this court, in a decision rendered on August 8, 1913, affirmed the judgment of the lower court in so far as it decreed the registration of the two parcels of land situated in Gatmuala and Murasan, in the barrios of Ligas and Ticay, municipality of Malolos, in behalf and in the name of the petitioning corporation, and reversed the said judgment in so far as it decreed the registration of the two parcels situated in the sitios of Mabolo and Daquila of the barrio of Santa Isabel. These last are the lands that are the subject matter of the present appeal. (Decision, proceedings No. 6360, R. G. No. 7375[1] of this court.)

However, under the provisions of section 49 of the Code of Civil Procedure, which reads :

"If, in an action commenced, or attempted to be commenced, in due time, a judgment for the plaintiff be reversed, or if the plaintiff fail otherwise than upon the merits, and the time limited for the commencement of such action has, at the date of such reversal or failure, expired, the plaintiff, or, if he die and the cause of action survive, his representatives, may commence a new action within one year after such date, and this provision shall apply to any claim asserted in any pleading by defendant."

Counsel for the petitioner on March 14, 1914, filed a new application in the same Court of Land Registration for the registration in conformity with law, of the two parcels of land situated in the sitios of Mabolo and Daquila of the barrio of Santa Isabel, Malolos, Bulacan, the description, metes and bounds of which are given in detail in the plan and technical description Exhibit A which was made a part of the application—the same two parcels of land whose registration in favor of the petitioner had been denied by this court in its decision of August 8, 1913. The petitioner alleged that it had acquired the said parcels of land by composition with the state on June 18, 1891; that their value was appraised at P9,360; and that the said properties were free of all encumbrance, although 33 persons, whose names it cited and who were then occupying the lands, claimed to be the owners thereof.

On November 28, 1913, the Director of Lands, through the Attorney-General, opposed the aforementioned application, alleging that the lands sought to be registered by the petitioning corporation belonged to the Government of the United States and were under the control and administration of the Government of the Philippine Islands. He therefore prayed the court to deny the application, with the costs against the petitioner.

By various writings of the dates of March 12, 13, and 14, 1914, Attorney Aurelio Cecilio opposed the said application in the names and in representation of the 33 objectors and occupants of the aforesaid parcels of land, alleging that all of them had been quietly and peaceably holding their respective parts of the land included in the application, during a uniform period of 30 years, and, furthermore, that the case had become *res judicata*, inasmuch as the registration of the same parcels of land had been denied by a final decision of the Supreme Court rendered in case No. 6360 of the Court of Land Registration.

The judge of this latter court who tried the case held that the two parcels of land here in question had belonged for more than a century to the Cofradia de Malolos, under the administration and control of the Roman Catholic Apostolic Church represented by the applicant corporation, as had been fully proven, not only by the testimony of witnesses, but also by ancient documents which had not been presented at the hearing on the first application, case No. 6360, and especially by the ledger account of the said Cofradia, Exhibit J, wherein it appears that from about the year 1896 nearly all the objectors or their predecessors in interest had been paying rentals to the said Cofradia de Malolos for the use and lease of certain parcels of land belonging to this congregation, thus recognizing it to be the owner of the lands in question; and as, in the opinion of the said judge, the ruling on the first application for the registration of the said parcels of land had not become *res judicata*, he denied the objections filed against the application and, by a judgment of March 26, 1914, ordered the registration of the two parcels of land situated in the sitios of Mabolo and Daquila of the barrio of Santa Isabel, pueblo of Malolos, the subject matter of the application filed in the name of the petitioning corporation which gave rise to these proceedings.

Counsel for the 33 objectors excepted to this judgment, made a written motion for a new trial, and announced his intention to file a bill of exceptions. This motion was denied, whereupon the objectors asked that all the evidence introduced in the case be made an integral part of the bill of exceptions which, after it had been filed and approved, was transmitted to the clerk of this court. However, the Director of Lands made a motion for a new hearing before the Court of Land Registration sitting in banc on the ground that the judgment rendered on March 26, 1914, in the applicant's favor, was in conflict with and in open contradiction to the previous judgment by that same court in case No. 8563, in which Jose P. Henson was the applicant, where questions identical with those brought up in the present case were raised and discussed, the judgments rendered in both proceedings being conflicting and opposed to each other. The Court of Land Registration, sitting in banc, by a judgment rendered on June 24, 1914, restricting itself to the question whether the judgment rendered in case No. 6360 denying the registration of the two parcels of land in Santa Isabel and which are now the subject matter of the present proceedings, is or is not a bar to new proceedings to have them inscribed in the registry of property, ruled adversely to the claim of the Director of Lands; therefore, in due time and after taking the necessary legal steps, the said Director presented a bill of exceptions for the purposes of the appeal.

No brief having been filed by any of the 33 objectors who now occupy the lands in dispute, we shall only concern ourselves in this decision with the errors assigned by the Director of Lands to the judgment appealed from in that the registration of the lands in question was decreed in the applicant's name, and that the objection of the Government of the Philippine Islands was overruled.

The identity of the two properties is not in discussion, for they were identified during the first hearing on the application presented in case No. 6360 in the year 1909. It is to be noted however, that the objectors have merely stated the number of parcels of land occupied by them and alleged to be included in the application without specifying either their respective area or situation. It is also to be observed that, according to the applicant's counsel, the total area of the parcels claimed by the objectors, excepting the Director of Lands who claims the whole of the land, amounts to only 65 hectares or thereabouts, and that as it is shown in the plan and technical description, the lands sought to be registered measure 85 hectares, 12 ares, and 61 centares. There are therefore more than 20 hectares which are not shown to be claimed by anybody or to have been the subject matter of any objection whatever, except by the Director of Lands.

On filing the new application for registration under section 49 of the Code of Civil Procedure, the applicant relied upon the discovery of new evidence which clearly proved its right of ownership in the two aforesaid parcels of land, and on the further ground that, as this was an action in rem and the ownership of the realty had not been decreed to any person, the applicant could file a new application for the registration of the same parcels of land, subject to the provisions of the aforesaid section 49 of the Code of Civil Procedure. The Court of Land Registration was of the same opinion and, holding that the applicant's right to have the said lands registered in its name had been fully proven, decreed the registration thereof in conformity with the said application.

In effect, according to the evidence adduced at the trial it was duly proven by the document Exhibit D (record, pp. 334-339) that on June 17, 1891, the Direction General de Administracion Civil de Filipinas (General Civil Government of the Philippines) granted to Father Moises Santos, in the name of Fr. Agustin Fernandez, parish priest of Malolos, "the composition with the state of some lands he possesses in the sitio of Calaylaya, barrios of Daquila and Mabolo, district of the pueblo of Santa Isabel of the said Province" of Bulacan, the interested party being required to pay the sum of 126 pesos and 26 centimos as expenses for survey and monumenting which payment was made on June 20, 1891, as shown on page 336 of the record. That, as a result of the examination and measurement of the lands, the composition of which was applied for by Father Fernandez, the expert Mariano Melgar, in his report of June 9, 1891, Exhibit E, folios 340-343, recommended to his superiors that " * * * as none

of the adjacent land owners nor any other person has presented any claim, the parcel of land situated in the sitio of Calaylaya of the barrios of Mabolo and Daquila should be adjudicated, by gratuitous composition, * * * in favor of the Cofradia de Nuestra Senora de la Correa which, according to the testimony of the principalia, * * * has been uninterruptedly enjoying and cultivating it for the past 60 years" (p. 341 of Exhibit E), thus corroborating the tenancy and possession by the said cofradia of the aforementioned lands since the year 1760 (Exhibit M; record, p. 356), inasmuch as in this year Jose Rafael y Consortes had erected a chapel and gave some lands, it being set forth in the deed of foundation that the lands granted were bounded on the south "by the lands of the Cofradia de la Cinta de San Agustin founded in the church of the said pueblo of Malolos;" this congregation, according to the testimony of William Edmond, agent of the Archbishop of Manila, is the same Cofradia de Malolos.

It was also proven by the testimony of Father Alejandro Carlos (record, pp. 443-444) that in 1901, in order to find out who were the owners of the adjacent lands in the barrio of Santa Isabel, he ordered the plan, Exhibit C-1, to be made and afterwards prepared the tax declarations of the four parcels of land belonging to this Cofradia and filed them with the municipal secretary of the pueblo of what was then Santa Isabel (Exhibit G, pp. 327-331). In the year 1906, the same Father Alejandro Carlos again declared the parcels of land situated in the barrios of Mabolo and Daquila as belonging to the said Cofradia. These are the lands here in question, as proven by the Exhibits K and L, found at pages 332, 333 of the record.

The ledger account book of the said Cofradia de Nuestra Senora de la Correa, Exhibit J, which was opened in the year 1847 and kept up until about the month of September, 1897, conclusively shows that between the years 1888 and 1892, inclusive, the objectors Julian de la Cruz, Basilio Teodoro, Isidro Teodoro, Macario Teodoro, Lorenzo Centeno, Isabelo Centeno and Francisco de Jesus paid during the said five years various sums as rental (canon) to the said Cofradia. It also shows that during the years 1889 and 1890 the predecessors in interest of the objectors Martin de Jesus, Lorenzo de Jesus, Mamerto Benedicto and Leoncio Ignacio had likewise been paying rentals to the parish priest of Malolos, as agent of the cofradia of the said pueblo, the amounts which as emphyteutic rent (canon) they were obliged to pay for their occupation of a certain part of the lands in litigation (Exhibit J). Moreover, the witnesses Miguel Gatchalian and Antonio Chiong, owners of land adjacent to those in question, and Jose Reyes, stated that these properties belonged to the Cofradia de Malolos and the parish priests of Malolos were the persons who ordered them cultivated and collected the crops harvested thereon until the year 1891; that in that year the lands were leased to Felipe Galan, who paid therefor rent which, according to Antonio Chiong, amounted to P600 per annum, and the said Galan ceased to make the said payments or to be such tenant only when the revolution against Spain broke out.

Furthermore, the book Exhibit J, as may be seen at the back of pages 277 to 279, shows that the Cofradia assumed all the expense for lawyers and court fees, stamped paper, and all proceedings of attachment and ejectment against tenants delinquent in the payment of rent. On the back of folios 274 and 279, corresponding to the months of July, 1890, and July, 1891, respectively, it appears that the Cofradia bore the expenses of the survey of the lands in question and in July, 1891, it also paid the sum of P139 for the property title to the said lands. As still further proof, in the same book Exhibit J, at the back of folio 267, containing the debit charges for the month of February, 1889, there appears an entry of the receipt of P1,521 and odd as indemnity and price paid by the Manila and Dagupan Railway Company for a strip of land, one now in dispute, for right of way of the said company; furthermore, the sale of this strip of land by the said Cofradia de Malolos to the railway company is supported by the deed of sale, Exhibit I, dated January 29, 1889, Fr. Felipe Garcia having received, in representation of the Cofradia, the vendor, the sum of P1,521.95 as the price of the sale.

It has not been precisely and clearly shown to what lands the rents paid correspond, but it is unquestionable that the lands which are the subject matter of the objection are within the boundary limits of the two parcels of land

sought to be registered, although the objectors have not specified the respective parcels of land they now occupy. To the 30 objectors in case No. 6360 of the Court of Land Registration and No. 7375 of the Supreme Court, the majority of whom figure also as objectors in the proceedings, there are to be added the names of three other men, Dionisio de la Cruz, Leoncio Ignacio and Severino Arcega, who have come forward as objectors in this case.

In the previous decision rendered on August 8, 1913, in which the Supreme Court ordered the registration of two parcels of land situated in Gatmuala and Murasan of the barrios of Ligas and Ticay of the pueblo of Malolos, in behalf and in the name of the Roman Catholic Archbishop of Manila, in accordance with the provisions of Act No. 496, it also at the same time denied the registration of the other two parcels of land situated in the places called Mabolo and Daquila, of the barrio of Santa Isabel of the said pueblo. This refusal to decree the registration was based on the facts that the documents presented by the applicant corporation merely proved that it had performed acts conducive to securing the registration of the said two parcels of land, though it had not shown that it had obtained the proper title thereto from the former sovereignty, and that the proof of its ownership of the said two parcels of land was insufficient inasmuch as it was proven that the objectors were in possession of their respective portions and the applicant had not proved, in those proceedings, that the said objectors were precarious holders and mere tenants, as was afterwards fully proven in these new proceedings in which, as aforesaid, the judge of the Court of Land Registration, disallowing the objectors' claim, held that the applicant corporation was the owner of the other two parcels of land and therefore ordered their inscription in the property registry in the name of the applicant, a decision which was concurred in by a majority of the judges of the Land Court.

In view of the judgment contained in the said decision with respect to the two parcels of land situated in Mabolo and Daquila, the applicant corporation, availing itself of the right allowed it by section 49 of the Code of Civil Procedure, again applied for the registration, within one year in accordance with law, of the said two parcels of land; but the application was opposed by nearly all the objectors in the first case and by others in representation of several of them, by some others who had not made objection in the said former proceedings, all of them holders and occupants of certain parts of the land comprised within the two parcels of land aforementioned who set up the plea of *res judicata*, that is, that an executory judgment had already been rendered in the case and that it would be improper to grant the registration of the said two parcels of land in the name of the applicant, for the reason that the objectors were and had been in possession as owners, for more than 30 years, of the pieces of land they were occupying.

Section 37 of Act No. 496 reads 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 any time before final decree, upon terms to be fixed by the court."

The order denying the registration contained in the second part of the said decision of August 8, 1913, was issued exactly in accordance with the provisions of the above-cited section of Act No. 496. The applicant corporation was authorized to withdraw its application for the registration of the said two parcels of land situated in Mabolo and Daquila, and although the decree denying the registration did not contain the clause of "without prejudice," the applicant corporation preserved its right to reiterate its application for registration or to present a new one, inasmuch as by the denial of its first application the court doors were not completely closed to it nor was the applicant absolutely deprived of its rights in the two pieces of land lawfully belonging to it

The second part of the said decision is equivalent to the dismissal of a complaint, a dismissal which does not absolutely deprive a plaintiff of his right to enter another complaint for the same cause. If the applicant corporation preserved its right to apply for the registration of the said two parcels of land, the lack of the clause "without prejudice" in the decree denying the registration sought does not preclude the applicant from exercising

its right to apply for the registration of the lands in question.

In order that a party may set up the plea of *res judicata*, it is indispensable that the order be pronounced in a final judgment that is executory, because only then does the judgment rendered in the first action produce the effects and have the force of *res judicata* and only then may it be pleaded in the new action, where there must be the most perfect identity between the things, the causes, the persons of the litigating parties and their capacity as such. The presumption of *res judicata* cannot be deduced from the grounds of the order, but from the *fallo* or from the dispositive part of the order, which is the real judgment in the case in litigation.

The part of the decision of August 8, 1913, which denies the registration of the lands referred to by the plaintiff corporation, is not of the nature of a final judgment, because even if the property involved were worth more than P50,000, no writ of error nor appeal from that part of the decision would lie to the Supreme Court of the United States.

Furthermore, if each one of the objectors should commence proceedings for the registration of the respective parcels of land they occupy, basing their action on the second part of the said decision which denies the registration sought by the plaintiff corporation, and if the latter should oppose each one of those proceedings, adducing substantial reasons for its objection by means of evidence such as that produced in the present case, it is unquestionable that court would in accordance with law decree the registration asked for by the present objectors of the parcels of land they occupy, and it is to be expected that the judge before whom the said proceedings were heard would dictate a like order denying the registration sought.

Entry in the property registry and the issuance of title presuppose that the applicant is the owner and proprietor of the realty he seeks to register.

The plea of *res judicata* must be founded on a judgment rendered in a previous action that was prosecuted between the same parties that had the same subject matter and that had the same cause of action.

If the determination is not of the nature of a final judgment, it cannot be held that the new issue raised between the same parties has already been finally adjudged and decided. (Secs. 306 and 307, Code of Civ. Proc.)

The refusal to allow the registration of the lands referred to by the plaintiff does not involve an acknowledgment of objectors' ownership of the two parcels of land in question. The registration was refused because of the insufficiency of the title presented by the plaintiff and because of the lack of proof of its right of ownership, and this was in obedience to the legal precept that every holder must be respected in his possession, so long as no other person with a better right appears. The decree of the court, denying the registration sought, means nothing more than the respect recommended by the law for the possession which the occupant enjoys, inasmuch as the applicant has not shown a better right or title to the real properties in question; but the said decree, denying the registration, does not declare the possessors of the lands sought to be registered are the owners and proprietors thereof, and therefore that order denying the registration does not produce the effects of *res judicata* on the new petition filed by the plaintiff for the registration of the two parcels of land in litigation, as the said decree does not contain any acknowledgment or declaration of ownership which would bar perpetually and absolutely a third person, who is the applicant, from proving, as it has done, that it is the actual and lawful owner of the lands in dispute, and that the objectors are no more than tenants and precarious holders of a major part of the lands in question, a portion of which is not held or occupied by anyone at the present time except by the applicant itself and no objector came forward to lay claim to it.

Article 1252 of the Civil Code, dealing with *res judicata*, provides that in order that this plea may be valid in another suit, it is necessary that, between the case decided by the final sentence and that in which the same is

expressly invoked, the plea must be founded on a judgment, and not on an order of any kind, for the reason that res judicata is understood to be something that has already been decided by a final judgment of a judge or court of competent jurisdiction; and whatever be the intrinsic justice of the judgment, it is indisputable that the pronouncement it contains is irrevocable and cannot be changed, for the reason that it was made in a final judgment.

For the foregoing reasons, and esteeming the error assigned by the representative of the Director of Lands to the judgment appealed from to have been refuted, the said judgment should be, as it is hereby, affirmed, without special finding as to costs. So ordered.

Johnson, and Araullo, JJ., concur.

Carson, J., dissents.

Moreland, J., see concurring opinion.

Trent, J., see dissenting opinion.

[1] Roman Catholic Archbishop of Manila vs. Teodoro, not published.

CONCURRING OPINION

MORELAND, J.:

I agree to the decision of the court. I also agree that the denial of the first application is not a bar to the present proceeding. (City of Manila vs. Lack, 19 Phil. Rep., 324.) I make this short statement because I am not, at this moment, fully satisfied that all of the arguments in the opinion presented to sustain the proposition that the denial of the first application is not a bar to the present proceeding, are sound, although I accept some of them.

DISSENTING OPINION

TRENT, J.:

Mr. Justice White, now Chief Justice of the Supreme Court of the United States, in the opening paragraph of his dissenting opinion in Pollock vs. Farmers' Loan & Trust Co. (157 U. S., 429, 608), said:

"My brief judicial experience has convinced me that the custom of filing long dissenting opinions is one 'more honored in the breach than in the observance.' The only purpose which an elaborate dissent can accomplish, if any, is to weaken the effect of the opinion of the majority, and thus engender want of confidence in the conclusions of courts of last resort. This consideration would impel me to content myself with simply recording my dissent in the present case, were it not for the fact that I consider that the result of the opinion just announced is to overthrow a long and consistent line of decisions, * * *."

In the instant case I would content myself with simply recording a dissent if I were not of the opinion that the doctrine announced by the majority of the court brings about a situation which requires legislative action.

The findings of fact and order for judgment of this Supreme Court in the former case with reference to the two parcels of land now in question, are as follows:

"As, from the evidence so submitted and from an examination of all the evidence of record, it appears that the objectors, to" the number of more than thirty, are in possession of various parcels of land comprised within the

two tracts situated in Mabolo and Daquila which the applicant seeks to have entered in the property registry; and as the documents presented by the applicant merely proved that it performed acts tending to secure the registration of the said two parcels of land, without its being shown by the testimony of record, on account of its deficiency, that the said applicant succeeded in having the said land actually registered or that it secured the proper title from the former Spanish Government; and in view of the opposition of the present holders of the said two disputed properties, who have been occupying their respective parcels of land for more than thirty years, as the owners thereof, with no proof to the contrary, to wit, that they held them as tenants and under precarious title; it is, therefore, improper to decree the registration sought of the aforementioned two parcels of land * * *, and by virtue of the adverse claims of thirty-one resident holders of lands situated within the two parcels of land located in Mabolo and Daquila, of the barrio of Santa Isabel and the pueblo of the same name, the registration of the said parcels, sought in these proceedings, is denied. The judgment of the Court of Land Registration is affirmed in so far as it is in agreement with this decision, and is reversed in so far as it is not. No special finding is made as to the costs of both instances. So ordered."

Final judgment was entered in accordance therewith on August 30, 1913.

This court now holds that a petitioner for the registration of land preserves, under section 37 of Act No. 496, the right to withdraw his application or present a new one after the entry of final judgment denying registration, although no application to withdraw was ever made and the petition was not dismissed "without prejudice." As to the first, the section provides that "the applicant may withdraw his application at any time before final decree, upon terms to be fixed by the court." Whether the words "before final decree" mean before the entry of final decree of registration or before the entry of final decree disposing of the case is of no importance, because an application to withdraw is essential to the right thus conferred. Without such application, the statute cannot be invoked. The holding on the second point to the effect that in dismissing the application it is not necessary for the court to state or decree that the same is done without prejudice renders the first part of the section inoperative. The question whether the application should be dismissed without prejudice is a matter for the court to determine after hearing the parties and taking into consideration all the facts and circumstances connected with the case. In the first case this court found that the opposing parties had been in possession of their respective parcels of land for more than thirty years as owners. This question was squarely presented and litigated by the parties in a court of competent jurisdiction. The petitioner, without improving his title by purchase or otherwise, is now decreed to be the owner of the land, in a new action.

Under the doctrine here announced, any applicant for the registration of land may present just as many applications for the registration of the same land as he may desire, notwithstanding the fact that final judgments upon the merits have been previously entered. No end to the litigation can be reached. It may continue until the oppositors, who are in possession of the land, will be forced to surrender on account of exhaustion. The case under consideration is directly in point. The oppositors, who are, no doubt, very poor people, fought the first case through all the courts and finally won. After the termination of the second case in the court below the oppositors could continue the fight no longer on account of their financial condition and must now give up their homes. Relief for others in a like situation can now be had by legislative enactment only.

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