

MANUEL LOCSIN RAMA, PETITIONER AND APPELLEE, VS. ALEJANDRO MONTELIBANO RAMOS, OBJECTOR AND APPELLANT.

G.R. No. 11570. January 23, 1917

Ponente: TORRES, J.

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TORRES, J.:

This appeal by bill of exceptions was filed by counsel for Alejandro Montelibano Ramos from the judgment of October 8, 1915, in which the Court of First Instance, overruling the opposition to the registration applied for, awarded to the conjugal partnership formed by Manuel Locsin Rama and

his wife Romualda Lacson all the land included in the application, with the proviso that, in accordance with the terms of the grant of that portion of the land marked as lot A on the plan Exhibit A, no building should be erected thereon.

By a written application of November 2, 1914, counsel for Manuel Locsin Rama applied to the Court of First Instance of Negros Occidental for the registration of a parcel of land containing 1,072 square meters, together with the improvements thereon of which he claimed his client to be the absolute owner, situated in the municipality of Silay of the Province of Negros Occidental, the description, metes, and bounds of which are given in detail in the plan and technical description Exhibit A, made a part of the application. The application stated that on April 17, 1906, this land was purchased by the applicant from its previous owners Eusebio Conlu, Emilia Conlu, Marciano Lacson, and Pedro Respal; that the applicant was then in possession; and that said property was unencumbered, although Alejandro Montelibano Ramos claimed 202 square meters of the same, or the part thereof designated as lot A on the plan Exhibit A.

On April 19, 1915, Alejandro Montelibano Ramos, as the natural guardian of his minor children Jose, Alfredo, Concepcion, and Alejandro, jr., and in their representation, opposed the registration of the said parcel of 202 square meters, alleging that this land had belonged to his late wife, Liceria Montelibano, mother of his said minor children, and consequently that it now belonged to these latter. He therefore asked that a guardian be appointed for these children, and that after the hearing of the case the registration of the said lot A be denied.

After the trial, wherein evidence was submitted by both parties, the court rendered the aforementioned judgment, to which counsel for Alejandro Montelibano Ramos excepted, moved for a new hearing and announced his intention of filing a bill of exceptions. Upon denial of this motion, the defendant-objector requested that all the evidence presented in this case be made an integral part of the bill of exceptions, which, upon presentation, was approved and transmitted to the clerk of this court.

In this case Manuel Locsin Rama seeks to register a parcel of land containing 1,072 square meters, situated in the pueblo of Silay, Negros Occidental. There is no dispute whatever with regard to the identity of the land. As described in the plan Exhibit A, it is composed of two parcels. One of them, containing 870 square meters, was that on which stood the house that belonged to the presbyter Eusebio Manuel Locsin, which, together with this land, was inherited by his grandchildren and a female cousin under the will executed by him on August 28, 1881, a

copy of which appears in Exhibit D. These heirs, named Eusebio Conlu, Emilia Conlu (married to Marciano Lacson), and Gema Conlu (wife of Pedro Respall) sold this property so inherited to the applicant Manuel Locsin Rama on April 17, 1906, for P1,000 (Exhibit B). The other parcel is a strip of land having a frontage of three and a depth of 19 brazas, which, by a resolution passed by the municipal council of the pueblo of Silay on August 26, 1894 (a copy of which, as Exhibit E, is found in the record), was ceded to Locsin's heirs on condition that no building should be erected on it. This land ceded by the municipal council is designated as lot A on the plan Exhibit A, has an area of 202 square meters and is the bone of contention between the parties, each of whom claims to be the exclusive owner thereof.

The question, then, submitted to the decision of this court is: Who is the true and lawful owner of the strip of 202 square meters of land designated as lot A on the plan of the land sought to be registered by Manuel Locsin Rama?

The applicant's contention, sustained by the judgment appealed from, is that the parcel in question was ceded to the heirs of the presbyter Eusebio Manuel Locsin by the municipal council of Silay in 1894 and was included in the conveyance of the property made by these heirs to the applicant in 1906. This grant and conveyance are proven by Exhibit B. Besides the proofs furnished by the applicant's Exhibits B and D with respect to the lawful origin of the major part of the land sought to be registered, and Exhibit E whereby, through a resolution of the municipal council of Silay dated August 26, 1894, the lot or parcel of land in question was ceded to the applicant's predecessors in interest, we have also the testimony of the witnesses Domingo Barnuevo, Vicente Gamboa Benedicto, Juan Abaygar, Felipe Tiongko and Eusebio Conlu, all of whom unanimously testified that the applicant had been in possession of the disputed land for the past nine years; that prior to the applicant's possession of the property it had been held during thirteen years by Locsin's heirs; that it was occupied under lease by Juan Viaplana for about ten years, from 1896 to 1906; that it had always been fenced in; that the fence was built by order of the said heirs; that the land was planted with plantain trees, the fruit from which was gathered by the applicant's ancestors. Furthermore, the witness Eusebio Conlu, one of the applicant's predecessors in interest, added that even prior to the year 1892, when he was a student in Manila and used to pass his vacations with his family, he lived in the house that stands on the land sought to be registered; that he knew at that time that the land now in litigation was a part of the lot that belonged to his great uncle, the presbyter Locsin; that in 1892 he took up his residence in the said house; and that in 1894 the municipal council of Silay ceded the said parcel of land to the witness and his coheirs. Felipe Tiongko, a witness who was formerly the attorney in fact of Emeterio Montelibano—this latter being the predecessor in interest of the objector Montelibano's wife—testified that title was awarded to his principal, Emeterio Montelibano, for a piece of land 15 brazas in area only, and that between this land and the property here in dispute there was left a strip 6 brazas wide that was not awarded to anybody.

The objector Alejandro Montelibano y Ramos claims lot A as belonging to his minor children, issue by his wife Liceria Montelibano, now deceased, inasmuch as the latter, on April 3, 1895, had purchased two properties from Emeterio Montelibano under pacto de retro for one year for P5,000; both of these were situated in the pueblo of Silay, the second of which—described in the deed of sale Exhibit 1, entered in volume 11, provisional registry of Silay, as property No. 158—comprises the disputed parcel of land and is bounded as follows: To the north, by the lands of Vicente Mateo Conlu, father of Emilia, Gema and Eusebio Conlu (see the will found on the back of page 14 of the record), a distance of 75.15 meters; to the south, a street, a distance of 75.15 meters; to the east, another street, 41.75 meters; and to the west, the land of Emeterio Montelibano, a distance of 41.75 meters. A camarin stands on the land sold. (Exhibit 1.)

The objector claims that the lot A belonged to his wife Liceria Montelibano by reason of the purchase of the land by her father, Emeterio Montelibano, and that the use of this lot was granted to Juan Viaplana by the objector's brother-in-law, Vicente Montelibano, because Viaplana, who had under lease the house and lot of Locsin's heirs,

had no ground of his own. These statements were corroborated by Vicente Montelibano, who added that the description of the lot A, as shown in Exhibit 1, was erroneous, for the eastern and western boundaries should be understood to be the reverse of those given in the said document. As against this testimony, Felipe Tiongko testified in rebuttal that the property No. 15, described in Exhibit 1, does not include the disputed lot A, but is another parcel of land belonging to the same party Emeterio Montelibano, the boundaries of which are correctly stated in the deed of sale, Exhibit 1.

In rebuttal the applicant also presented the document Exhibit G, which is a copy of the minutes of the session held on May 20, 1893, by the provincial board of land adjustments (compositions) of Occidental Negros. In that session the council considered the application filed by Emeterio Montelibano, and the majority of the members of the board were of the opinion that the said Montelibano should not be granted the composition of a lot more than 15 brazas in frontage. They based their opinion on the grant made to the latter by the principalia of the pueblo of Silay, and on the fact that, although from the measurements taken it appeared that the lot had a frontage of 21 brazas, it was not proper and there was no reason whatever to grant him the excess. Therefore, to avoid difficulties, the board excluded from the grant the strip of land measuring one and a half meters that was claimed by the owners of the house of Eusebio Locsin as being covered by the eaves of the house, and an additional 4.17 meters that was also claimed by them as pertaining to the said house. The board also resolved that it was improper to grant the excess area to the heirs of Eusebio Locsin.

Exhibit F duly proves that by resolution of the board of land adjustments dated May 20, 1893, the Direccion de Administracion Civil de Filipinas, on August 10, 1894, granted Emeterio Montelibano a royal title to a parcel of land containing 8 ares and 90 centares, bounded on the north by a strip of land 11.99 meters wide, of no known owner, which separated the house of the heirs of Eusebio Luching (who must be Locsin) from the applicant's lot; on the south, by a street of the town; and on the west, by the main street of the pueblo. According to the rough sketch and "notes regarding the lot" attached to the record of the proceedings, Severo Rama and his coheirs then claimed a strip of land 1 1/2 meters wide as pertaining to the eaves of the house, and beside this strip, another, measuring 2 1/2 brazas in width, as a space that belonged to the house. The said rough sketch and "notes regarding the lot" set forth that the land contains 8 ares and 90 centares and has a frontage of 15 brazas, that is, 25.05 meters on Calle Real, now Rizal, without including therein the following three strips of land, to wit: (1) a strip 1 1/2 meters wide under the eaves of the house belonging to Severo Rama and his coheirs; (2) a strip 2 1/2 brazas wide, that is, 4.17 meters, as land belonging to the house; and, (3) another strip 6.27 1/2 meters wide, which was the excess that resulted from the survey of the land sought to be registered by Montelibano. The area of these strips aggregates 11.94 1/2 meters, which is the measurement of the land that lies between the wall of the house of Presbyter Locsin, the herein applicant, and the boundary of the land granted by "composition" to Emeterio Montelibano. The resolution passed by the board of land adjustments, Exhibit G (record, p. 92), is of the same tenor as the preceding resolution, in that this board unanimously decided to grant to Emeterio Montelibano title to 15 brazas or 25.05 meters of frontage applied for in his application, excluding the 11.95 meters shown as excess in the measurement made and which extended to Severo de la Rama's house, that is to say, to the house that belonged to the Presbyter Locsin.

So that it very clearly appears that neither the applicant nor Liceria Montelibano's predecessor in interest was or has been at any time the lawful owner of the strip of land 11.95 meters wide that separates the properties of these adjacent owners, for if Severo de la Rama and his coheirs had proven their right of ownership in this strip of land, the provincial board of land adjustments would unquestionably have respected it; otherwise, the said interested parties would have sought other lawful means to vindicate the same inasmuch as their dominical rights in the strip of land of one meter and a half, corresponding to the projection of the eaves of the house, and in the other 4.17 meters of land also pertaining to the same house, could not be the subject matter of an administrative

resolution.

It is not to be wondered at that the said strip of land was not adjudicated to the applicant Emeterio Montelibano, for, as he applied for composition with the state for a lot having a frontage of 15 brazas, or only 25.05 meters, the board of land adjustments was unable to grant him a larger area than that which he applied for.

Notwithstanding that the provincial board of land adjustments had already stated that the claim of the heirs of Father Locsin, from its very nature, did not come within its jurisdiction, but pertained to that of the courts of justice (Exhibit G) yet none of the interested parties went into court to settle the conflict of interests between them. This clearly indicates that Emeterio Montelibano was convinced that he could not secure a larger tract from the Government, seeing that he had applied for a smaller one, and that Father Locsin's heirs also were convinced that the strip of land in their possession belonged to the municipality, which on August 26, 1894, ceded to Father Locsin's heirs the said strip having a frontage of 3 brazas and a depth of 19 brazas—a vacant, unoccupied, town lot—on the sole condition that the grantees should not construct any building on it (Exhibit E; record, p. 18).

Alejandro Montelibano's opposition relates solely to this strip of land of 202 square meters, marked A on the plan found on page 5 of the record; he contends that it is not a part of the applicant's lot but that it is an integral part of the land, the composition title of which Montelibano's ancestor or predecessor in interest had obtained from the State. However, from the certificate Exhibit G it appears that Emeterio Montelibano obtained a composition title for a piece of land or a lot having only 15 brazas in frontage or containing 25.05 square meters, instead of 21 brazas, there being excluded the 11.95 meters which on their survey were found to be in excess, and as the objector had not furnished evidence that would offset the contents of the certificate he himself presented, there is no legal reason for sustaining his opposition, and the applicant is entitled to ask for the registration of the said, parcel of land, lot A, containing 202 square meters.

In effect, by the action of the municipal council of Silay in allowing Father Locsin's heirs to occupy the said lot A, as owners, there was left a vacant strip of 11.95 meters of land, without any holder, which intervened between the said lot A and the land acquired by Montelibano by composition, according to the boundaries given in the certificate Exhibit G. Therefore, if the objector's ownership cannot be extended to this intervening strip of land which does not belong to him, much less can he be deemed to be the owner of the 202 square meters of land, lot A, since it is situated on the other side of the said vacant strip of land, and which lot the applicant's predecessors had expressly obtained by grant from the municipal council of Silay.

It is true that municipal councils are not authorized to alienate or make grants of Government lands, nor could any right whatever be transmitted to the grantee; but the said lot is one that formed a part of the territory of the pueblo of Silay, and although the grant of this lot A was improperly made to Father Locsin's heirs by the municipal council of the said pueblo, it is a proven fact that from the date of the grant the applicant's predecessors and the applicant himself for the past twenty years have been holding the property so ceded, with the best of faith and in the belief that they were lawfully occupying it as owners.

If Father Locsin's heirs had occupied the said lot by themselves without permission of the municipal council, even without good faith, they would have acquired the ownership of the property through the lapse of the long period of time fixed by law, because the parcel in question is not public Government land, but one which is included within the area of the land assigned to the people of Silay and to the territory of the pueblo at the time of its foundation.

However, even if, in view of its origin, the land or lot in question be considered as public land belonging to the State, if account be taken of the fact that the grantees, the predecessors of the applicant, were natives of this country, as is also the petitioner, it is unquestionable that after ten years of possession they have, by prescription,

acquired title to the said land in accordance with the original laws in force in these Islands, especially some of those of title 12, book 4 of the Recopilacion de las Indias. The royal decree approving the regulation of June 25, 1880, touching the composition of public lands, was inspired by the said former legal provisions, since article 4 of the said regulation provided that for all legal purposes such persons as shall prove that they have held possession of unappropriated public lands, of the kind here in question, without interruption for ten years by virtue of just title and in good faith, shall be considered to be the owners thereof.

It was fully proven at trial that on August 26, 1894, according to the certified copy of the minutes found on page 18 of the record, Father Locsin's relatives obtained a grant of the strip of land in question with the best of good faith, for they confidently believed that the gobernadorcillo and the principales of Silay who granted them the said strip of land and who for this purpose set out the grant of the property they had decided to make in an official document, acted legally and were authorized to perform that act; and although this grant was improper in the eyes of the law, yet it is certain that the grantees believed it to be lawful, and in that character they were lawful possessors and held a just title which they later formally transmitted to the applicant who, with equal good faith, believing himself to be the lawful owner of the land, applied to have it entered in the property registry, together with another parcel owned exclusively by him, for the purpose of obtaining the necessary title thereto.

Although the title acquired by the grantees to the said strip of land of 202 square meters in area was not genuine and legal, yet it is undoubtedly clothed with the appearance of legality, reason and justice; it was issued by the local authorities for the purpose of transferring the ownership of the property therein specified, and this title, supported as it was by possession as owner and in good faith, that is by prescription, accredits ownership and constitutes what in law is known as color of title. Taking into consideration that the applicant, Manuel Locsin Rama, is now and has been for twenty years, in possession of the said property, counting that of his predecessors, it may be said that beyond a shadow of a doubt that the ownership in the said strip of land has prescribed, pursuant to the provisions of section 41 of Act No. 190, since the possession of the applicant has been actual, open, public, and continuous, under a claim of title exclusive of any other right and adverse to all other claimants, among them, the objector Montelibano.

For the foregoing reasons, whereby the errors assigned to the judgment appealed from have been refuted, the said judgment should be, as it is hereby, affirmed, with the costs against the appellant. So ordered.

Carson, Moreland, Trent, and Araullo, JJ., concur.

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