

**DOMINGO BANATAO, DOROTEO BANATAO, FRANCISCO BANATAO,
AND ARSENIO BANATAO, PLAINTIFFS AND APPELLEES, VS.
SALVADOR DABBAY AND JACINTO TULIAO, DEFENDANTS AND
APPELLANTS.**

G.R. No. 12264. September 23, 1918

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12264/>

STREET, J.:

In this action the plaintiffs seek to obtain a judicial determination of the ownership of certain land situated in the sitio of Fugu, barrio of Malabbad, in the Province of Cagayan, and to recover possession thereof from the defendants, with damages and costs. From a judgment rendered in the Court of First Instance in favor of the plaintiffs the defendants have appealed.

As no motion for a new trial was made in the court below until after the appeal had been taken and the bill of exceptions approved, the facts found in the trial court will not be reviewed, and the case will be here considered merely with reference to such questions of law as are presented upon the appeal. In the lower court the defendant Tuliao practically entered a disclaimer as to the property; and he will be ignored as a party to this appeal.

It appears that forty or fifty years ago a new island made its appearance in the Cagayan River at or near the spot where the land in question is situated. This island was called Fugu, a word which, in the native dialect prevailing in the Cagayan Valley, means "island." Soon after this island appeared, an ancestor of the plaintiffs, named Juan Banatao, established himself upon its northern end, while one Quienes and others respectively took possession of separate strips extending across the island but lying further south.

As a result of the formation of this island the Cagayan River was divided into two branches; and, in course of time, the river has abandoned the eastern branch altogether. The old bed of this eastern branch of the river is clearly marked by a depression in the land indicating the former course of the stream, in which are to be seen deposits of stone and gravel. This area is called in the local dialect "Carentan," meaning a sandy beach; and upon it is located the present sitio of Carentan.

The change of the river above noted has thus operated to destroy the character of Fugu as an island; and it has thereby become connected terrestrially with the land lying on the eastern bank of the Cagayan River; but the old name remains and the place is now known as the sitio of Fugu.

After the island of Fugu was formed changes of importance occurred in its location and shape, owing to the shifting of the course of the Cagayan River. The general character of these changes was that the upper end of the island, that is the southern portion, was gradually eroded and carried away by the descending waters of the stream, while as a result of accretion and the deposit of alluvium, the northern and northwestern part of the island continually grew in size. As a result of this action of the river the island very slowly moved northward from the place of its first appearance in the river, and slowly increased in size northwardly and westwardly. The process of

erosion which was going on at the southern end of the island finally carried away altogether the strips of land which had been occupied by other settlers than Banatao and Quienes and took away all but a very narrow strip of that which had belonged to the latter. On the other hand, the process of accretion, which was going on at the northern and north-western end of the island, continually added to that portion of the island where Juan Banatao had planted himself.

The new area added in the manner above stated is of considerable extent, and the plaintiffs allege in their complaint that the land owned by them, including the increment added by accretion, amounts to 213 hectares, 36 ares and 82 centares. The land which is the subject of the present controversy, however, consists of a strip extending east and west and containing an area of 12 hectares, 86 ares and 20 centares, indicated on plaintiff's Exhibit E as occupied by Salvador Dabbay.

The possession of the plaintiffs, by their predecessors in interest, dates from before the year 1881 and has continued, without interruption except as to the part now occupied by the defendant Salvador Dabbay. In the latter part of the year 1894 Jacinto Banatao, the son of Juan Banatao, caused a possessory information to be drawn up and inscribed in the property register, showing his occupation of that portion of the island then in his possession. The circumstance that this document was drawn up within a year after February 13, 1894, would indicate that the title thereby acquired, pursuant to the provisions of the royal decree of that date, was equivalent to that which would have been obtained by composition with the State. (See *Carino vs. Insular Government*, 8 Phil. Rep., 150.) And as such it was treated by the court below. Whether this possessory information actually combined all the requisites essential to constitute a title equivalent to a composition title is immaterial, since the long duration of the possession and cultivation of the property by the plaintiffs and their predecessors in interest has perfected their title, whatever may have been the character of the document referred to.

The notable alluvial accretion, of which mention has been made began prior to 1899, and probably two or three years prior to that date. It is thus seen that the accretion which has added so largely to the area of the northern and northwestern portion of Fugu has occurred mostly since Jacinto Banatao procured his possessory information.

The trial court took judicial notice of the fact that the Cagayan River is a navigable stream. This is assigned as error by the appellant. We are of the opinion that the court committed no error in so finding. The circumstance that section 275 of the Code of Civil Procedure does not especially mention the navigability of rivers as a matter concerning which courts may take judicial notice is of no moment, as this subject is one which in our opinion is clearly within the general principle there stated. After mentioning numerous matters proper to be judicially noticed by the court, among which are the territorial extent of the several islands, forming the Philippine Archipelago and its geographical divisions, said section states that "all similar matters of public knowledge shall be recognized by the courts without the introduction of proof * * *."

In conformity with the principle thus stated the courts may take judicial notice of the existence and location within the territory over which they exercise jurisdiction of great rivers and lakes, and their relation to the national or provincial boundaries, of the navigability of streams constituting highways of commerce and other notorious facts concerning the same. The presumption of general knowledge weakens as we pass to smaller and less known streams; and yet, within the limits of any state the navigability of its largest rivers ought to be generally known, and the courts may properly assume it to be a matter of general knowledge, and take judicial notice thereof. (*Wood vs. Fowler*, 26 Kan., 682, 687; 40 Am. Rep. 330.)

The suggestion made in behalf of the appellants to the effect that a river in these Islands cannot be considered navigable unless it has been declared such in conformity with the requirements of article 175 of the Law of Waters is in our opinion untenable.

Upon the facts above stated the plaintiffs claim the ownership of the land in question as an accretion, supporting their contention by reference to the following provisions of law:

Article 371 of Civil Code: "Islands which may form * * * in navigable or floatable rivers belong to the State."

Article 366 of Civil Code: "Any accretions which the banks of rivers may gradually receive from the effect of the current belong to the owners of the estates bordering thereon."

Article 84, Law of Waters: "Accretions deposited gradually upon lands contiguous to creeks, streams, rivers and lakes, by accessions or sediments from the waters thereof, belong to the owners of such lands."

It will thus be seen that the arguments in favor of ownership in the plaintiffs proceed upon the idea that the island of Fugu was originally property of the State, that the plaintiffs' ancestor acquired title from the State by occupation and by virtue of the possessory information recorded in his name, and that all the accretion to said property belongs, under the provisions above cited, to him and his heirs.

The conflicting claim of the defendant Salvador Dabbay is based on the circumstance that he owns, or claims to have owned for a long period of time, a parcel of land on the east side of the abandoned bed of the Cagayan River, and lying east of the place where the new land was formed in the sitio of Fugu. In his answer to the amended complaint in this case, this defendant alleges that the Cagayan River which originally formed the western boundary of his property, had gradually receded toward the west, forming and uniting new and alluvial land to his property. This allegation of fact is refuted by the finding of the lower court, which clearly demonstrates that the Cagayan River abandoned the old eastern bed for a new course and did not gradually shift its course in the manner stated in the defendant's answer.

The circumstance that the Cagayan River abandoned the old eastern bed, instead of gradually shifting its course to the west, makes it impossible for the defendant Salvador Dabbay to maintain his claim to any part of the land in controversy as an accretion, in accordance with article 366 of the Civil Code, and article 84 of the Law of Waters; but reference is made in his behalf to article 373 of the Civil Code and article 83 of the Law of Waters. These articles declare that an island formed in a river by the successive accumulation of deposits belongs to the riparian owners on the respective banks of the stream, unless the island is farther from one bank than from the other, in which case it shall belong to the owner of the nearest bank.

We are of the opinion that the case is one which falls more properly under article 366 of the Civil Code and article 84 of the Law of Waters than under article 373 of the Civil Code and that the plaintiffs therefore have the better right. As was well observed by the trial judge the plaintiffs' predecessors were the first to appropriate the new island; there is no evidence as to the width of the eastern and western branch of the river at the time the island was formed; nor as to who were the opposite riparian owners. Nor does it appear that any person claimed Fugu or any part of it, as riparian owner. The island was evidently treated as part of the public domain, and the plaintiffs are therefore to be considered as having acquired their title from the government.

In this connection we quote the following passage from the opinion of the trial court.

"The litigated property could in no sense have been an accretion to the parcel claimed to be owned by the defendants. When the Law of Waters and the Civil Code (articles 84 and 366, respectively) speak of accretions to the banks of rivers, the term 'banks of rivers' is not necessarily confined to the banks which confine streams, but may when circumstances require it, also include the banks of rivers which exist on islands. Here it is shown that an island in the river was appropriated and a grant for the part of the same obtained by the plaintiffs from the State. This island or so much thereof as was appropriated and granted, must be treated, therefore, as property of original acquisition and not as accession or derivative acquisition, and, with regard to the owners on the shores

opposite to it on both sides, it must be treated as if the intervening streams were distinct streams, and as if the island were mainland between which, and the mainland on each side, a separate river flowed."

The defendant Salvador Dabbay further relies upon the defense of *res adjudicata* and shows that on March 2, 1909, a judgment was entered in the Court of First Instance of Cagayan Province in his favor in an action instituted by him against Domingo Banatao, Juan Banatao, and Manuel Magalad, wherein said defendants were ordered to return said land to Salvador Dabbay. The latter asserts that he was put in possession of the property in question by virtue of said judgment and has subsequently held possession in pursuance thereof. The lower court found that said action was originally instituted in the court of the justice of the peace under section 80 of the Code of Civil Procedure, that it was appealed to the Court of First Instance under section 88 of the same Code and that in the latter court judgment was rendered as above stated. Upon these facts the court held that the action in question involved merely the right of possession of the property in question, and that the judgment relied upon was not conclusive as to the ownership. We are of the opinion that this conclusion was correct in point both of law and of fact. The prayer of the complaint filed in the Court of First Instance was that the court should give judgment condemning the defendants to restore the possession of said land to the plaintiffs with damages and costs. The action was evidently one for unlawful detention; and, although it was necessary for the court to consider the ownership, as bearing upon the right of possession, the judgment of the Court of First Instance was not conclusive as to the title.

From what has been said it results that there was no error in the judgment appealed from and the same is affirmed, with costs against the appellant. So ordered.

Torres, Johnson, Carson, Malcolm, Avanceña, and Fisher, JJ., concur.

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.