

**ESPERIDION ADORABLE, ET AL., CLAIMANTS AND APPELLEES, VS.
DIRECTOR OF FORESTRY, MOVANT AND APPELLANT.***G.R. No. 13663. March 25, 1960*

Ponente: REYES, J.B.L., J.

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In Cadastral Case No. 88 of the Court of First Instance of Iloilo, Esperidion Adorable, in his own behalf and that of his brothers and sisters, presented a claim over Lot No. 3249 situated in barrio Madong, Janiuay, Iloilo. After hearing before the Justice of the Peace of Janiuay, who was duly authorized to hear, the cadastral case in that municipality, judgment was rendered awarding the aforementioned lot to claimants Esperidion Adorable, et. al. Copy of the decision was received by the Director of Forestry on January 14, 1956; and on January 31, before the finality of the decision, said Director, through the Provincial Fiscal of Iloilo, filed a motion for reconsideration and new trial, claiming that he was not notified of the hearing, that his office had a claim over a portion of the lot in question for river bank protection or as permanent timberland, and that he was unduly denied the opportunity to appear and present evidence in behalf of his office. The motion was denied by the court upon the ground that it was not obliged to notify the Director of the hearing because the latter did not file any claim over the land in question; and that at any rate, said official should be deemed to have notice of the proceedings because an employee of his Bureau was present at the hearing and had with him a map of the cadastre. From the denial of his motion, the Director of Forestry appealed to the Court of Appeals, urging that the court below erred in holding that it was not necessary to serve him notice of the hearing and in denying his motion for reconsideration and new trial. These questions being purely of law, the Court of Appeals certified the appeal to this Court.

The claim of the appellant Director of Forestry that he is entitled to a personal notice of the hearing in this case seems to have been based on the provisions of section 32, Act No. 496 (as amended by section 2, Republic Act 96), that:

"* * * If the land borders on a river, navigable stream, or shore, or an arm of the sea where a river or harbor line has been established, or on a lake, or if it otherwise appears from the application or the proceedings that the National Government may have a claim adverse to that of the applicant, notice shall be given in the same manner to the Solicitor General, the Director of Public Works, the Director of Lands, and the Director of Forestry. * * *"

Since the description of the land here in question does not show that it borders, on a river, stream,, sea, or lake, and considering the fact mentioned by the court that an employee of the Bureau of Forestry was present all throughout the hearing with a map of the cadastre but did not make any claim in behalf of said Bureau, the omission to send personal notice of the hearing to appellant can not be considered a violation of section 32 of Act 496.

But while the lower court was not legally bound to send personal notice of the hearing to appellant, it does not mean, however, that it acted correctly and within legal bounds in summarily dismissing appellant's motion for reconsideration and new trial without any inquiry as to the truth of the facts alleged therein. Appellant based his

motion on the claim that a portion of the land in question either is needed for river bank protection or forms-part of permanent timberland. If this claim that any portion of the land in question still forms part of the public forests is true, then possession thereof, however long, cannot convert it, into private property (*Vaño vs. Government of the Philippines*, 41 Phil., 161), and such portion would fall within the exclusive jurisdiction of the Bureau of Forestry and beyond the power and jurisdiction of the cadastral court to register under the torrens system (*Nicolas vs. Jose*, 5 Phil., 589; *Vaño vs. Government of the Philippines*, *supra*). Hence, the lower court should have set appellant's motion for hearing to receive evidence on his allegations, in order that any portion or portions of the land in question that should form part of the forest or timber zone may be excluded and segregated from the decree of registration in favor of appellees.

The order appealed from is, therefore, set aside, and the records are remanded to the court of origin for a hearing on the motion for reconsideration and new trial of the appellant Director of Forestry, after which a new judgment shall be rendered with respect to Lot No. 3249. No costs.

Bengzon, Montemayor, Bautista Angelo, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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