

**THE GOVERNMENT OF THE PHILIPPINE ISLANDS ET AL.,
PETITIONERS. VICENTE JOCSON ET AL., APPELLANTS, VS. THE
DIRECTOR OF FORESTRY, OBJECTOR AND APPELLEE.**

G.R. No. 13756. January 30, 1919

Ponente: MOIR, J.

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MOIR, J.:

In the cadastral land registration for the town of Hinigaran, Occidental Negros, the appellants sought to register the three lots or parcels of land involved in this appeal, which registration was opposed by the Director of Forestry.

The trial court found that lot 1104 was almost entirely "forestry" land, that a small portion of lot 1154 and all of lot 1158 were "forestry" lands, to which appellants had no title, and declared the lots public lands, and refused registration of the parts of these lots to which opposition had been filed by the Forestry Bureau. The claimants excepted and perfected their bill of exceptions and brought the case to this court for review, setting up the following assignments of error:

"1. The court erred in not holding to have been proven the facts that the lots 1104, 1154, and 1158 of the cadastral survey of Hinigaran were possessed by Bibiano Jocson as Owner during his lifetime and from a time long prior to the year 1880, and, after his death, by his heirs, on which lots nipa plants were planted and now exist and that these latter are not spontaneous plants utilized by said heirs.

"2. The court erred in not holding to have been proven that a part of lot No. 1158 is rice and pasture land that was possessed as owner by Bibiano Jocson during his lifetime and peaceably long before 1880, a possession continued by his heirs who still enjoy the use of the land up to the present time.

"3. The court erred in not holding to have been proven that on that same lot 1158, there has existed since the year 1890, and still exists, a fish hatchery which has been possessed and enjoyed by the heirs of Bibiano Jocson, as owners, for more than 27 years, not counting the prior possession of their predecessor in interest.

"4 The court erred in holding that lot No. 1158 and part of lots 1104 and 1154 are forest land, finding this fact as sufficiently proven by the sole and absurd testimony of the ranger to the effect that nipa is a plant of spontaneous growth and is not planted; and, as the photographs only refer to small portions of the area of the lot, the court also erred in holding that the whole lot was covered with firewood trees, while in fact but a very small portion of it is covered with trees which protect the nipa plants and the fish hatchery, it having been proven that a large part of the lot was sown with rice and used as pasture land.

"5. The court erred in not holding that the parts of lots 1104, 1154 and 1158, covered by mangrove swamps, are agricultural land, and in not holding to have been proven that these swamps are not available, inasmuch as they are drained at low tide; errors committed with manifest violation of law and disregard of the jurisprudence established by the Honorable Supreme Court of the Philippines.

"6. The court erred in not holding that the claimants and appellants, by their peaceable, public, and continuous

possession for more than forty years, as owners, including that held by their predecessors in interest, had acquired by prescription lots 1104, 1154, and 1158, in conformity with Act No. 190, section 41, which, without exception, is applicable to the State as well as to private parties, and by extraordinary prescription of thirty years.

"7. The court erred in not adjudicating said lots to the claimants and appellants, in consideration of the possession they have had for more than forty years, from the time of their predecessor in interest to the present time, thus violating the legal provision whereby the holders of land who have been in its possession for ten years prior to the enactment of the land law, Act No. 926, by the United States Philippine Commission, are to be deemed the absolute owners of such land, and to be presumed to have applied for the same and to have complied with the Spanish laws and all the proceedings required by the Royal Decrees on the composition of titles; and, therefore, pursuant to said Act now in force, the land in question should be adjudicated to the possessors thereof.

"8. The court erred in not granting the new trial requested by the appellants, the motion therefor being based on the ground that his findings of facts, if there are any, are openly and manifestly contrary to the weight of the evidence."

It is not necessary to consider all these assignments of error, for the main question involved is whether manglares [mangroves] are agricultural lands or timber lands. If they are timber lands the claimants cannot acquire them by mere occupation for ten years prior to July 26, 1904; if not, they can so acquire them under the Public Land Act, and no grant or title is necessary.

This being a cadastral case there are no findings of fact, but the trial court states that lot 1104 was in possession of claimants and their ancestors for more than thirty years, and lot 1154 for more than twenty-five years. Lot 1158 is declared to be wholly "forestal." The area of the lots does not appear.

The evidence fully sustains the contention of the claimants that they have been in possession of all of those lots quietly, adversely and continuously under a claim of ownership for more than thirty years prior to the hearing in the trial court. There is not a word of proof in the whole record to the contrary. They set up no documentary title. They do claim the parts of the lands denied registration are "mangles" with nipa and various other kinds of aquatic bushes or trees growing on them, and that in 1890 on lot 1158 they constructed a fishpond (viviero de peces) which was later abandoned as unprofitable, and that part of this lot is pasture land, part palay and part "mangles."

The attorney-General contends in his brief that the parts of the lands denied registration are public forest and can not be acquired by occupation, and that all "manglares are public forests."

In the Act of Congress of July 1st, 1902, there is a classification of all public lands of the Philippine Islands, and in mentioning forestry land the Act of Congress used the words "timber land." These words are always translated in the Spanish translation of that Act as "terrenos forestales." We think there is an error in this translation and that a better translation would be "terrenos madereros." Timber land in English means land with trees growing on it. The manglar plant would never be called a tree in English but a bush, and land which has only bushes, shrubs or aquatic plants growing on it can not be called "timber land."

The photographs filed by the Government as exhibits in this case show that at two places there were trees growing on this land, but the forester who testified for the Government always calls these lots "mangles," and he says the trees which are growing on the lands are of no value except for firewood. The fact that there are a few trees growing in a manglar or nipa swamp does not change the general character of the land from manglar to timber land.

That manglares are not forestry lands within the meaning of the words "timber lands" in the Act of Congress has

been definitely decided by this Court in the case of *Montano vs. Insular Government* (12 Phil. Rep., 572). In that case the court said:

"Although argued at different times, five of these cases have been presented substantially together, all being covered by one brief of the late Attorney-General in behalf of the Government in which, with many interesting historical and graphic citations he described that part of the marginal seashore of the Philippine Islands known as manglares, with their characteristic vegetation. In brief, it may be said that they are mud flats, alternately washed and exposed by the tide, in which grow various kindred plants which will not live except when watered by the sea, extending their roots deep into the mud and casting their seeds, which also germinate there. These constitute the mangrove flats of the tropics, which exist naturally, but which are also, to some extent, cultivated by man for the sake of the combustible wood of the mangrove, like trees, as well as for the useful nipa palm propagated thereon. Although these flats are literally tidal lands, yet we are of the opinion that they can not be so regarded in the sense in which the term is used in the cases cited or in general American jurisprudence. The waters flowing over them are not available for purpose of navigation, and they 'may be disposed of without impairment of the public interest in what remains.'"

The court on page 573 further said:

"It is a kindred case to *Cirilo Mapa vs. The Insular Government* * * * (10 Phil. Rep., 175)."

"As some discussion has arisen as to the scope of that decision, it appears opportune to reaffirm the principle there laid down. The issue was, whether lands used as a fishery, for the growth of nipa, and as salt deposits, inland some distance from the sea, and asserted, though not clearly proved, to be overflowed at high tide, could be registered as private property on the strength of ten years occupation, under paragraph 6 of section 54 of Act No. 926 of the Philippine Commission. The point decided was that such land within the meaning of the Act of Congress of July 1, 1902, was agricultural, the reasoning leading up to that conclusion being that Congress having divided all the public lands of the Islands into three classes it must be included in one of the three, and being clearly neither forest nor mineral, it must of necessity fall into the division of agricultural land."

In the case of *Mapa vs. Insular Government* (10 Phil. Rep. 175), this court said that the phrase "agricultural lands" as used in Act No. 926 means those public lands acquired from Spain which are not timber or mineral lands.

Whatever may have been the meaning of the term "forestry" under the Spanish law, the Act of Congress of July 1st, 1902, classifies the public lands in the Philippine Islands as timber, mineral or agricultural lands, and all public lands that are not timber or mineral lands are necessarily agricultural public lands, whether they are used as nipa swamps, manglares, fisheries or ordinary farm lands.

The definition of forestry as including manglares found in the Administrative Code of 1917 cannot affect rights which vested prior to its enactment.

These lands being neither timber nor mineral lands the trial court should have considered them agricultural lands. If they are agricultural lands then the rights of appellants are fully established by Act No. 926.

Paragraph 6 of section 54 of that Act provides as follows:

"All persons who by themselves or their predecessors in interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said Act of Congress of July first, nineteen hundred and two, under a bona fide claim of ownership except as against the Government, for a period of ten years next preceding the taking effect of this Act, except when prevented by war or force majeure, shall be conclusively presumed to have performed all the conditions essential to a government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter."

"* * * * *

This Act went into effect July 26th, 1904. Therefore, all persons who were in possession of agricultural public lands under the conditions mentioned in the above section of Act No. 926' on the 26th of July, 1894, are conclusively presumed to have a grant to such lands and are entitled to have a certificate of title issued to themw (Pamintuan vs. Insular Government, 8 Phil. Rep., 485.).

While we hold that manglares as well as nipa lands are subject to private acquisition and ownership when it is fully proved that the possession has been actual, complete and adverse, we deem it proper to declare that each case must stand on its own merits.

One cannot acquire ownership of a mangrove swamp by merely cutting a few loads of firewood from the lands occasionally. The possession must be more complete than would be required for other agricultural lands.

The appellants were in actual possession of the lots in question from 1882, and their ancestors before that date, arid they should have been declared the owners and title should have been issued to them.

There is no need to consider the other points raised on appeal.

The judgment of the lower court is reversed and the case is returned to the lower court, with instruction to enter a decree in conformity with this decision. So ordered.

Arellano, C.J., Torres, Johnson, Street, Araullo, and Avanceña, JJ., concur.

Judgment reversed, Case remanded with instructions.

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