

**EMILIANA EMPAMANO, ET AL., APPLICANTS AND APPELLEES, VS.
THE DIRECTOR OF LANDS, OPPOSITOR AND APPELLANT.***G.R. No. 14106. January 31, 1962*

Ponente: DIZON, J.

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Appeal by the Director of Lands from the decision of the Court of First Instance of Quezon (Gumaca Branch) in Land Registration Case No. N-302, G.L.R.O. Record No. 8943, adjudicating to the applicants therein a parcel of land situated at Bato, San Narciso, Quezon, with an area of 68.6867 hectares described in PSU-47182 (Exh. D).

On October 2, 1954, the heirs of the deceased Marciano Jovellana—Emiliana Empamano, his widow, and their sons, Antonio Jovellana and Apolinar Jovellana—filed an application for original registration of one parcel of land located at barrio Bato, Municipality of San Narciso, Quezon, with an area of 68.6867 hectares (plan PSU-47182, exhibit D) and of another situated at barrio Abuyao of the same municipality, with an area of 13.0252 hectares (plan PSU-47164, exhibit E). The Director of Lands opposed the application asserting that neither appellees nor their predecessors in interest had sufficient title to the lands aforementioned, the same not having been acquired by composition title from the Spanish Government nor by possessory information title under the Royal Decree of February 13, 1894, nor had they or their predecessors in interest possessed said lands openly, continuously, adversely and under a bona fide claim of ownership since July 26, 1894.

An order of general default, except as against the Director of Lands, was entered by the Court, and on December 9, 1955, after due hearing, the Court rendered the appealed judgment.

It is not now disputed that appellees and their predecessors in interest have been in open, continuous, adverse possession in the concept of owner of the two parcels of land applied for registration in their names prior to July 26, 1894 up to the present time, having paid the taxes due thereon as evidenced by their tax declarations and tax receipts (Exhibits G/H, H-1 to H-11, and E).

With respect to the parcel of land described in PSU-47182 of the application—which is the only one affected by the present appeal—the evidence discloses that the deceased Marciano Jovellana acquired the same from Francisco Endrinal by purchase in 1914 (Exhibit F) and enjoyed possession thereof since then until he died, his heirs thereafter having enjoyed such possession until the present; that Fermin Endrinal, in turn, had inherited the property from his father, Fermin Endrinal, who had possessed it since the Spanish time.

The sole issue raised by appellant arises from the fact that appellee Emiliana Empamano, prior to the institution of the present proceeding, executed on February 17, 1953 a sales application under oath and filed the same with the Bureau of Lands, covering the parcel of land in Bato, San Narciso, Quezon, described in PSU-47182 (Exhibit D), paragraph 6 of which reads as follows:

"6. I understand that this application conveys no right to occupy the land prior to its approval, and I recognize that the land covered by the same is of the public domain and any and all rights I may have with respect thereto by virtue of continuous occupation and cultivation, are hereby relinquished to the Government. * * * if this

application is approved,otherwise, I shall apply for Torrens title to this land". (Exhibits 1 & 1-A). The italicized clause has been inserted in the printed form prescribed.

No action has thus far been taken by the Bureau of Lands on said application. Appellant contends that, by virtue of paragraph 6 of the sales application, appellees not only recognized that said parcel belongs to the Government but have also relinquished in favor of the Government whatever rights they may have acquired therein by reason of their continuous occupation and cultivation of the same, and that they are now estopped from applying for the same under the provisions of the Land Registration Act.

Appellant's contention is untenable. A reading of the statement relied upon in support thereof readily discloses that whatever admission and waiver were made therein by Emiliana Empamano with respect to the public character and ownership of the parcel of land in question were expressly made to depend upon the approval by the government of her sales application. Said application, as already stated, had not yet been approved nor disapproved at the time the lower court decided this case. Moreover, the statement is clear in that if the sales application was disapproved, the applicant reserved her right to "apply for Torrens title to said land". As her application remained unacted upon in the Bureau of Lands, she had the right to exercise this right.

On the other hand, even granting that a clear and definite admission and waiver were made, the same could bind Emiliana Empamano alone, because there is no evidence in the record that her children had authorized her to make such, admission and waiver.

In view of the foregoing, the decision appealed from is hereby affirmed, with costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, and De Leon, JJ., concur.

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