

J. H. ANKRON, PETITIONER AND APPELLEE, VS. THE GOVERNMENT OF THE PHILIPPINE ISLANDS, OBJECTOR AND APPELLANT.

G.R. No. 14213. August 23, 1919

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of the Province of Davao, Department of Mindanao and Sulu. Its purpose was to have registered, under the Torrens system, a certain piece or parcel of land situated, bounded and particularly described in the plan and technical description attached to the complaint and made a part thereof.

The only opposition which was presented was on the part of the Director of Lands. The oppositor [objector] alleged that the land in question was the property of the Government of the United States under the control and administration of the Government of the Philippine Islands.

During the trial of the cause two witnesses only were presented by the petitioner. No proof whatever was offered by the oppositor. After hearing and considering the evidence, the Honorable Francisco Soriano, judge, reached the following conclusions of fact:

- That the land sought to be registered consists of one parcel of land, as marked and indicated on the plan and technical description presented;
- That all of said land, with the exception of a small part at the north, the exact description and extension of which does not appear, has been cultivated and planted for more than forty-four years prior to the date of this decision;
- That said land was formerly occupied, cultivated and planted by Moros, Mansacas and others, under a claim of ownership, and that they lived thereon and had their houses thereon, and that that portion of the land which was not planted or cultivated was used as pasture land whereon they pastured their carabaos, cattle, and horses;
- That all of said Moros and Mansacas sold, transferred and conveyed, all their right, title and interest in said land to the applicant, J. H. Ankron, some eleven years past, at which time all of the said former owners moved on to adjoining lands where they now reside;
- That the possession under claim of ownership of the applicant and his predecessors in interest was shown to have been open, notorious, actual, public and continuous for more than forty-four years past, and that their claim was exclusive of any other right adverse to all other claims;
- That the applicant now has some one hundred fifty (150) hills of hemp, some eight thousand (8,000) coconut trees, a dwelling house, various laborers' quarters, storebuilding, large camarin (storehouse) of wood, a galvanized iron and other buildings and improvements on said land.

Upon the foregoing facts the lower court ordered and decreed that said parcel of land be registered in the name of the said applicant, J. H. Ankron, subject, however, to the right of the Government of the Philippine Islands to

open a road thereon in the manner and conditions mentioned in said decision. The conditions mentioned with reference to the opening of the road, as found in said decision, are that the applicant give his consent, which he has already done, to the opening of said road which should be fifteen (15) meters wide and should follow approximately the line of the road as it now exists subject to the subsequent survey to be made by the engineer of the province of Davao.

From that decree the Director of Lands appealed to this court.

The appellant argues, first, that the applicant did not sufficiently identify the land in question. In reply to that argument, the record shows that a detailed and technical description of the land was made a part of the record. The evidence shows that the boundaries of the land in question were marked by monuments built of cement. The oppositor neither presented the question of the failure of proper identification of the land in the lower court nor presented any proof whatever to show that said cement monuments did not exist.

The appellant, in his second assignment of error, contends that the applicant failed to prove his possession and occupation in accordance with the provisions of paragraph 6 of section 54 of Act No. 926. The important prerequisites for registration of land imposed by said section 54, paragraph 6, are (a) that the land shall be agricultural public land as defined by the Act of Congress of July 1, 1902; (&) that the petitioner, by himself or his predecessors in interest, shall have been in the open, continuous, exclusive and notorious possession and occupation of the same under a bona fide claim of ownership for a period of ten years next preceding the taking effect of said Act.

In the present case the applicant proved, and there was no effort to dispute said proof, that the land in question was agricultural land and that he and his predecessors in interest had occupied the same as owners in good faith for a period of more than forty years prior to the commencement of the present action. No question is raised nor discussed by the appellant with reference to the right of the Moros to acquire the absolute ownership and dominion of the land which they have occupied openly, notoriously, peacefully and adversely for a long period of years. (*Carino vs. Insular Government*, 7 Phil. Rep., 132 [212 U. S., 449].)

Accepting the undisputed proof, we are of the opinion that said paragraph 6 of section 54 of Act No. 926 has been fully complied with and that the petitioner, so far as the second assignment of error is concerned, is entitled to have his land registered under the Torrens system.

Under the third assignment of error the appellant contends that portions of said land cannot be registered in accordance with the existing Land Registration Law for the reason that they are manglares. That question is not discussed in the present brief. The appellant, however, refers the court to his discussion of that question in the case of *Jocson vs. Director of Forestry* (39 Phil. Rep., 560). By reference to the argument in the brief in that case, it is found that the appellant relied upon the provisions of section 3 of Act No. 1148 in relation with section 1820 of Act No. 2711 (second Administrative Code). Section 3 of Act No. 1148 provides that "the public forests shall include all unreserved lands covered with trees of whatever age." Said section 1820 (Act No. 2711) provides that "for the purpose of this chapter 'public forest' includes, except as otherwise specially indicated, all unreserved public land, including nipa and mangrove swamps, and all forest reserves of whatever character."

In the case of *Mapa vs. Insular Government* (10 Phil., Rep., 175), which decision has been followed in numerous other decisions, the phrase "agricultural public lands" as defined by Act of Congress of July 1, 1902, was held to mean "those public lands acquired from Spain which are neither mineral nor timber lands" (forestry lands).

Paragraph 6 of section 54 of Act No. 926 only permits the registration, under the conditions therein mentioned, of "public agricultural lands." It must follow, therefore, that the moment that it appears that the land is not

agricultural, the petition for registration must be denied. If the evidence shows that it is public forestry land or public mineral land, the petition for registration must be denied. Many definitions have been given for "agricultural," "forestry/* and "mineral" lands. These definitions are valuable so far as they establish general rules. In this relation we think the executive department of the Government, through the Bureau of Forestry, may, and should, in view especially of the provisions of sections 4, 8, and 20 of Act No. 1148, define what shall be considered forestry lands, to the end that the people of the Philippine Islands shall be guaranteed in "the future a continued supply of valuable timber and other forest products." (Sec. 8, Act No. 1148.) If the Bureau of Forestry should accurately and definitely define what lands are forestry, occupants in the future would be greatly assisted in their proof and the courts would be greatly aided in determining the question whether the particular land is forestry or other class of lands.

In the case of *Jocson vs. Director of Forestry* (supra), the Attorney-General admitted in effect that whether the particular land in question belongs to one class or another is a question of fact. The mere fact that a tract of land has trees upon it or has mineral within it is not of itself sufficient to declare that one is forestry land and the other, mineral land. There must be some proof of the extent and present or future value of the forestry and of the minerals. While, as we have just said, many definitions have been given for "agriculture," "forestry," and "mineral" lands, and that in each case it is a question of fact, we think it is safe to say that in order to be forestry or mineral land the proof must show that it is more valuable for the forestry or the mineral which it contains than it is for agricultural purposes. (Sec. 7, Act No. 1148.) It is not sufficient to show that there exists some trees upon the land or that it bears some mineral. Land may be classified as forestry or mineral today, and, by reason of the exhaustion of the timber or mineral, be classified as agricultural land tomorrow. And vice-versa, by reason of the rapid growth of timber or the discovery of valuable minerals, lands classified as agricultural today may be differently classified tomorrow. Each case, must be decided upon the proof in that particular case, having regard for its present or future value for one or the other purposes. We believe, however, considering" the fact that it is a matter of public knowledge that a majority of the lands in the Philippine Islands are agricultural lands, that the courts have a right to presume, in the absence of evidence to the contrary, that in each case the lands are agricultural lands until the contrary is shown. Whatever the land involved in a particular land registration case is forestry or mineral land must, therefore, be a matter of proof. Its superior value for one purpose or the other is a question of fact to be settled by the proof in each particular case. The fact that the land is a manglar [mangrove swamp] is not sufficient for the courts to decide whether it is agricultural, forestry, or mineral land. It may perchance belong to one or the other of said classes of land. The Government, in the first instance, under the provisions of Act No. 1148, may, by reservation, decide for itself what portions of public land shall be considered forestry land, unless private interests have intervened before such reservation is made. In the latter case, whether the land is agricultural, forestry, or mineral, is a question of proof. Until private interests have intervened, the Government, by virtue of the terms of said Act (No. 1148), may decide for itself what portions of the "public domain" shall be set aside and reserved as forestry or mineral land. (*Ramos vs. Director of Lands* (39 Phil. Rep., 175; *Jocson vs. Director of Forestry*, supra).)

In view of the foregoing we are of the opinion, and so order and decree, that the judgment of the lower court should be and is hereby affirmed, with the condition that before the final certificate is issued, an accurate survey be made of the lands to be occupied by the road above mentioned and that a plan of the same be attached to the original plan upon which the petition herein is based. It is so ordered, with costs.

Arellano, C.J., Torres, Araullo, Street, Malcolm, and Moir JJ., concur.

Judgment affirmed.

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