

THE DIRECTOR OF LANDS, PETITIONER AND APPELLEE, VS. JOSE ABADA ET AL., OBJECTORS. GREGORIO MONTINOLA, APPELLANT.*G. R. No. 15299. September 10, 1920*

Ponente: MALCOLM, J.

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While the facts which this appeal suggests are rather out of the ordinary, resolution of the question presented is not at all difficult if the prime purposes of the Torrens and cadastral systems are kept clearly in mind, and if well established legal rules are unhesitatingly applied.

The facts in chronological order are these: One Gregorio Montinola has a Torrens title numbered 66, to a lot containing some 9,000 square meters situated in the city of Iloilo. When cadastral survey No. 8007 was instituted in the city of Iloilo in 1914, Montinola laid claim to a parcel of land, denominated lot 1-A containing 2,218 square meters, adjoining the lot to which he had title. In proceedings of February 19, 1914, it seems that the court reserved its decision. Whether since that date a judgment has been promulgated having reference to the land affected by this cadastral survey does not appear of record.

At about the same time another cadastral survey No. 9739, was begun in the city of Iloilo. Publication and notice as required by law was made. The trial began on April 30, 1914, continued through the month of May, and was finished on December 5, 1914. The judgment of the judge of first instance was rendered on August 29, 1916. Specific reference is made in this decision to cadastral survey No. 8007. No opposition having been entered, lot No. 1078, among others, was adjudicated to the Government of the Philippine Islands.

It was not until approximately two years and three months later that Gregorio Montinola took any action to protect his interests by filing a motion in the Court of First Instance of Iloilo. The court was given to understand that lot No. 1-A mentioned in cadastral survey No. 8007 was the same lot No. 1078 adjudicated to the Government of the Philippine Islands in cadastral survey No. 9739. Montinola asked that the case be reopened and that he be declared the owner of lot No. 1078. The motion was supported by Exhibit A, a plan of the property; Exhibit B, the affidavit of Gregorio Montinola; and Exhibit C, a portion of the proceedings had before Honorable Manuel Camus, Judge of First Instance in cadastral survey No. 8007. The provincial fiscal opposed the granting of the petition on the ground that the time prescribed by law for the filing of a motion for a new trial had passed. The judge of first instance held with the fiscal and denied the motion. A motion for reconsideration was filed by Montinola, which likewise was denied by the court. From these two orders of the judge of first instance, Montinola has appealed to this court.

As we said, the principles governing this case are well known. A modern land registration system was established in the Philippine Islands in order that there might be certainty as to land titles. The offspring of the main system, the cadastral system, even went further by requiring persons to come in to court and substantiate their claims or lose their property. Even at the expense of proceeding with apparent harshness with respect to individual litigants, the courts must constantly be on guard to defend the Philippine registration system.

Applying these elementary principles, it is evident that when Montinola entered his opposition in the first cadastral case, he was proceeding exactly as he should if his property rights were to be protected. When, however, another cadastral survey was initiated, Montinola was again under the obligation to enter opposition and present his proof or lose his property. He could not sit idly by, permit time to pass beyond the period fixed for the reopening of a case and then by ordinary motion expect his rights to be respected by the courts. The decree of August 29, 1916, became final and irrevocable when Montinola did not come into court and pray for its revocation within the statutory period. (Tambunting vs. Manuel [1916], 35 Phil., 699; Director of Lands vs. Maurera and Tiongson [1918], 37 Phil., 410; Government of the Philippine Islands vs. Abural [1919], 39 Phil., 996.)

Vigilantibus et non dormientibus jura subveniunt.-The laws serve the vigilant, not those who sleep.

On the assumption that the appellate court has jurisdiction, the order appealed from is affirmed with costs against the appellant. So ordered.

Johnson, Carson, Araullo, Avanceña and Villamor, JJ., concur.

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