

THE DIRECTOR OF LANDS, PETITIONER, VS. JUAN M. AGUSTIN ET AL., CLAIMANTS; LADISLAO DAYRIT, CLAIMANT AND APPELLEE ; AMADO L. SANTOS, CLAIMANT AND APPELLANT.

G. R. No. 16179. October 06, 1921

Ponente: JOHNSON, J.

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JOHNSON, J.:

Some time prior w the 29th day of July, 1918, the Director of Lands presented a petition in the Court of First Instance of the Province of Pampanga for the registration of a certain piece or parcel of land under the Cadastral system. On the 29th day of July, 1918, the appellant Amado L. Santos presented a claim lots Nos. 122 and 123, alleging that said lots belonged to him, and prayed that the same be registered in his name. To the claim of the appellant Amado L. Santos, Ladislao Dayrit presented his opposition, alleging that he was the owner of lot No. 124 and that there existed in favor of said lot (No. 124) an easement upon said lots Nos. 122 and 123, and requested that said easement be noted upon whatever title might be issued to Amado L. Santos for said lots Nos. 122 and 123.

Upon the issue thus presented with reference to the registration of said lots Nos. 122 and 123, two questions arose, namely:

- (1) Was Amado L. Santos the owner in fee simple of said lots Nos. 122 and 123, and entitled to have the same registered under the Cadastral system (Torrens system)?
- (2) Whether the owner of said lot No. 124 was entitled to have his alleged easement noted upon whatever certificate of title might be issued to Amado L. Santos for lots Nos. 122 and 123.

That no person is entitled to have land registered under the Cadastral or Torrens system unless he is the owner in fee simple of the same, even though there is no opposition presented against such registration by third persons, has been decided by the courts many times. One of the primary and fundamental purposes of the registration of land under the Torrens system is to secure to the owner an absolute indefeasible title, free from all encumbrances and claims whatsoever, except those mentioned in the certificate of title issued, and, so far as it is possible, to make the certificate issued to the owner by he court, absolute proof of such title. In order that the petitioner for the registration of his land shall be permitted to have the same registered, and to have the benefit resulting from the certificate of title, finally issued, the burden is upon him to show that he is the real and absolute owner, in fee simple, of the land which he is attempting to have registered. The petitioner is not necessarily entitled to have the land registered under the Torrens system simply because no one appears to oppose his title and to oppose the registration of his land. He must show, even though there is no opposition, to the satisfaction of the court, that he is the absolute owner, in fee simple. Courts are not justified in registering property under the Torrens system, simply because there is no opposition offered. Courts may, even in the absence of any opposition, deny the registration of the land under the Torrens system, upon the ground that the facts presented did not show that the petitioner is the owner, in fee simple, of the land which he is attempting to have registered. (Maloles and Malvar

vs. Director of Lands, 25 Phil., 548; De los Reyes vs. Paterno, 34 Phil., 420, 424; Roman Catholic Bishop of Lipa vs. Municipality of Taal, 38 Phil, 367, 376.)

The lower court, at the close of the hearing, reached the conclusion that Amado L. Santos had not adduced proof sufficient to show that he was the owner in fee simple of said lots Nos. 122 and 123, but granted to him sixty days within which to present additional proof showing his right to have said lots registered, subject, however, to the easement which the said Ladislao Dayrit claimed against said lots. In other words, while the lower court found that the evidence was insufficient to justify a registration of said lots Nos. 122 and 123 under the Cadastral system, it did find that the evidence showed that there existed in favor of lot No. 124 an easement of the right to take water through a canal across said lots Nos. 122 and 123.

The said Amado L. Santos, instead of presenting additional proof showing his right to have said lots Nos. 122 and 123 registered, subject to said easement, immediately appealed to this court, and attempts to show, among other things, that said lots (Nos. 122 and 123) should not be subjected to the said easement in favor of lot No. 124, and that the evidence adduced during the trial was sufficient to show that he was the owner in fee simple of said lots.

After hearing the evidence adduced during the trial of the cause, the lower court made an ocular inspection of the existence of the easement in question, and became thoroughly convinced, not only from the evidence adduced during the trial of the cause, but from said ocular inspection, that there existed the easement in question in favor of said lot No. 124.

With reference to the sufficiency of the evidence to show that Amado L. Santos was the owner in fee simple of said lots (Nos. 122 and 123) and entitled to have the same registered in his name, it may be said (a) that the evidence adduced during the trial of the cause is not sufficient his contention, and (b) that in his argument in support of that assignment of error, he cites no proof nor any part of the record in support of his contention.

After a careful examination of the entire record we are forced to the conclusion that the judgment of the lower court should be, and is hereby, affirmed, with costs. So ordered.

Araullo, Street, and Avancena, JJ., concur.

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