

ICHISUKE AGARI, PETITIONER AND APPELLEE, VS. THE GOVERNMENT OF THE PHILIPPINE ISLANDS, OBJECTOR AND APPELLANT. ICHISUKE AGARI, PETITIONER AND APPELLEE, VS. THE GOVERNMENT OF THE ...

G. R. No. 16703. September 12, 1921

Ponente: JOHNSON, J.

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JOHNSON, J.:

It appears from the record that on or about the 5th day of November, 1919, the petitioner herein filed a petition in the Court of First Instance of the Twenty-sixth Judicial District for the registration of three parcels of land under the Torrens system, which parcels are particularly described in the plan and exhibits attached to the petition. To the registration of said parcels of land the Attorney-General presented an opposition, basing the same upon the ground that the parcels of land in question belong to the Government of the United States, under the control and administration of the Government of the Philippine Islands. Upon the issue thus presented the cause was brought on for trial.

During the trial of the cause the petitioner testified as a witness and stated that he had purchased said parcels of land from two different persons, Pelagio Villanueva and his brother Anastasio Villanueva, on the 17th day of August, 1915, and the 14th day of October, 1915, respectively. He further testified that the land was planted to cocoanut trees and hemp plants; and that since the purchase of said parcels of land he had been in the quiet, peaceful, open, and notorious possession thereof, without molestation from any person or persons.

Pelagio Villanueva testified that the parcels of land in question had been sold by himself and his brother Anastasio to the petitioner; that he and his brother had respectively executed and delivered the deeds represented by Exhibits B and C which were presented in evidence; that his father had obtained a "composition con el Estado" during his lifetime; that they had inherited said parcels of land from their father; that he was 38 years of age, and that his father had been in possession of said parcels of land as long as he could remember.

The opponent presented no proof whatever to contradict the evidence adduced by the petitioner. The facts presented by the petition, therefore, stand uncontradicted.

The Attorney-General, however, now, for the first time during the pendency of the appeal in this court, contends that the petitioner is a Japanese citizen and not a citizen of the Philippine Islands, and that, therefore, by virtue of the provisions of Act No. 2874, he was prohibited from having the parcels of land in question registered. The Attorney-General presents the further argument that the petitioner and his predecessors could not obtain the said parcels of land against the Government by prescription.

The Attorney-General has evidently overlooked the following facts in his argument: (1) That the predecessors of the petitioner had obtained the land in question by virtue of a "composition con el Estado"—a fact which stands uncontradicted; (2) that the petitioner and his predecessors had been in possession of said parcels of land for a

period of more than thirty years; (3) that, by virtue of paragraph 6 of section 54 of Act N6. 926, in relation with Act No. 1908, a prescription against the State is expressly authorized under the conditions, therein described, provided that the land is agricultural land; (4) that the petitioner purchased the land in question nearly four years before Act No. 2874 took effect; (5) that at the time the petitioner purchased the land in question, it was private land; and (6) that said Act No. 2874 does not apply to the purchase and registration of private lands. (*Central Capia vs. Ramirez*, 40 Phil., 883; *Tan Yungquip vs. Director of Lands*, p. 128, ante.)

For all of the foregoing reasons the judgment of the lower court is hereby affirmed, without any finding as to costs. So ordered.

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

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