

SMITH, BELL & CO., LTD., APPLICANT AND APPELLANT, VS. THE DIRECTOR OF LANDS ET AL., OPPONENTS AND APPELLEES.*G.R. No. 22193. November 20, 1924*

Ponente: OSTRAND, J.

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It appears from the evidence that in the year 1893 an Englishman named Pickford caused a tract of land situated in the barrio of Agtiwi, municipality of Toledo, Cebu, to be surveyed by a public surveyor Ignacio Regner and instituted possessory information proceedings in regard to the same. The record of the information was inscribed in the registry of property of the Province of Cebu on April 28, 1894, and recited that the land consisted of 32 contiguous parcels purchased by Pickford from previous owners who had occupied their respective parcels for ten years or more. The total area of the land was stated to be 500 hectares.

Pickford became indebted to the firm of Smith, Bell & Co., Ltd., in the total sum of approximately P68,000 and executed two mortgages in favor of the firm; one of the mortgages is dated August 17, 1894, and the other was executed on November 17, 1905. Pickford lived on the land until the outbreak of the revolution when he removed to Cebu. He subsequently went abroad and does not appear to have personally returned to the land, but left it in charge of Smith, Bell & Co., Ltd., who declared it for the purposes of taxation and paid the taxes thereon.

On April 30, 1915, Pickford, who was then in Mazagan, Morocco, conveyed his remaining interest in the estate in fee simple to Smith, Bell & Co., Ltd.

In September, 1918, the property was surveyed by the Bureau of Lands, following the lines of the Regner survey in 1893, and upon the plans prepared by the Bureau of Lands in accordance with its survey, Smith, Bell & Co., Ltd., on May 25, 1919, filed the application for registration in the present case.

A large number of oppositions were presented and several orders of general default were issued and afterwards reopened for admission of additional oppositions. Several of the oppositions were subsequently rejected and at the time of the trial of the case in December, 1922, only the following opponents remained: Florencio Pansacala, Eutiquio Delit, Cleto Laspena, Francisco Gabato, Regino Laspena, Adriano Sembrano, Canuto Larrobis, Genon Lariosa, Sinforoso Engaling, Modesta Canteveros, Quintin Laspena, the heirs of Eugenio Cabigas, Antero Siempre, Pantaleon Bolo, Jose Rico and the Director of Lands.

After a lengthy trial extending over a period of several months and the taking of a large amount of testimony, the court below found that the land had not been sufficiently identified as that described in the possessory information and denied the application for registration. From this judgment the appellant appeals to this court. The assignments of error present only questions of fact.

A careful examination of the record leads us to the conclusion that the trial judge misinterpreted the evidence as to the identification of the land. It is, indeed, difficult to see how, under the circumstances, the identification could have been made more complete. The testimony is uncontradicted that the land described in the possessory

information is the same as that included in the Regner survey and that the lines of that survey were followed by the Bureau of Lands survey in 1918, upon which the technical description of the land here in question is based. Several of the land marks referred to by Regner in his testimony have also been clearly identified, corroborating, to a considerable extent, the testimony to the effect that the same lines were followed in both surveys.

It is very true that the area of the land given in the later survey, some 667 hectares, is larger than that given in the old survey, but discrepancies of that kind between old and new surveys are often found and are due to the fact that the area in the old surveys was usually estimated instead of computed and that care seems generally to have been taken not to overestimate. The difference in this case is smaller than that ordinarily encountered in similar cases.

It is also true that the names of the adjoining landholders are widely different in the two surveys but that is of comparatively slight importance when the unsettled character of the hill population, as testified to by the Bureau of Lands' surveyor Bunagan, is taken into consideration.

Twenty-five years passed between the two surveys and during that period many changes of abode would be likely to occur.

The opposition of the Director of Lands intimates that part of the land in question is mineral land inasmuch as coal has been found and coal mining permits have been issued. The evidence shows, however, that minerals have not been found in paying quantities and that the land is more valuable for agricultural than for mining purposes.

It may further be noted that unless the applicant's possession of the land had in the meantime been legally interrupted, the possessory information recorded in April, 1894, became convertible into a title in 1914, and that therefore the land cannot now be considered public and subject to the provisions of the Public Mineral Land Laws.

As to the private adverse claimants or opponents, comparatively little need be said. Though all of them assert that they by themselves and through their predecessors have been in possession of the respective parcels claimed by them for very long periods, it is a significant fact that none of them appear to have declared their parcels for taxation until very recently and it is fair to conclude that their adverse claims are only of recent origin. At first blush it might seem that Eugenio Cabigas paid taxes at an earlier date on the land claimed by his heirs, but on closer examination of the evidence we are convinced that the land originally declared by him for taxation lies to the northwest of the dotted line in plan Exhibit 2, and consequently outside of the limits of the land here in question. The additional area declared subsequently to 1917 probably represents encroachments on the land of the applicant.

There can be no doubt that Pickford bought and paid for all of the land within the limits of the Regner survey; if he had not done so, there would have been objections to the survey and "Regner testifies that there were no such objections. Pio Ponce, another disinterested party, who at that time was teniente of the barrio of Agtiwi and assisted in the survey, states that Pickford paid all of the persons who claimed any interest in the land within the survey and that they were "conformes, muy contentos."

Oral evidence in regard to possession of land is notoriously unreliable and the testimony as to the subsequent adverse possession by the various opponents in this case forms no exception to the general rule. Without taking time and space to go into details, we may say that all of it is more or less in conflict with facts which we regard as conclusively established and none of it is in our opinion sufficient to defeat or impair the title of the applicant as shown by its documents.

The judgment appealed from is therefore reversed and it is hereby ordered and adjudged that all of parcels Nos. 1, 2 and 3 be registered in the name of the applicant, the corporation Smith, Bell & Co., Limited. Without costs. So

ordered.

Johnson, Street, Malcolm, Avanceña, Villamor, and Romualdez, JJ., concur.

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