

**PLACIDO ESCUDERO (DECEASED) AND CLAUDIA MARASIGAN, IN
HER OWN BEHALF AND AS ADMINISTRATRIX OF THE ESTATE OF
THE DECEASED PLACIDO ESCUDERO, APPLICANTS AND APPELLEES,
VS. CORNELIO...**

G.R. No. 23940. December 21, 1925

Ponente: OSTRAND, J.

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OSTRAND, J.:

It appears from the record of the present case that on September 14, 1920, the herein appellees applied for the registration of a tract of land measuring nearly 58 hectares and situated in the barrio of San Jose, municipality of San Pablo, Laguna, and that on December 24, 1921, the Court of First Instance rendered a decision ordering the registration of the land. Upon appeal to the Supreme Court by the Director of Lands, the judgment of the court below was affirmed in a decision promulgated November 24, 1922.[1]

On December 23, 1922, less than thirty days after the promulgation of the decision of the Supreme Court, the appellant, Cornelio Esguerra, filed a motion for review in which he alleged that he was the owner of over 10 hectares of land within the area registered"; that he had been in quiet and pacific possession of the same for over ten years; that he had received no notice of the aforesaid land registration proceedings and had been fraudulently deprived of his property. He therefore prayed that after trial and presentation of evidence, the decree be reviewed and that the land claimed by him be excluded from said decree in accordance with Act No. 496. The motion was set down for hearing on January 29, 1923, and on June 8, 1923, the court below rendered a so-called decision in which it was recited that Cornelio Esguerra was one of the boundary men of the registered land; that he had not been notified of the land registration proceedings; that, therefore, on the authority of the case of *Estiva vs. Alvero* (37 Phil., 497), the registration had been obtained by fraud, and it was ordered that Cornelio Esguerra "within the term of ten days from notice of the order, present an escrito de oposicion accompanied by a plan or at least by a sketch sufficiently clear and comprehensive to indicate the true situation, area and boundary of the land which he claims."

In compliance with this order, Esguerra presented his escrito de oposicion on March 25, 1924, and the case was set down for trial upon the merits. After receiving the rather voluminous evidence of both parties, the court, on May 22, 1924, rendered an exhaustive and well prepared decision in which it found that Esguerra owned no land or real interest therein within the limits of the area registered and that he was not a boundary man at the time of the registration of the property and, therefore, not entitled to special notification of the proceedings, and that the applicants for registration, in failing to specially notify him, had not acted in bad faith. In the final or dispositive clause of the decision, the court says: "For the reasons stated, the motion for review is hereby denied and the order of this court of June 8, 1923, is set aside and, as soon as this decision becomes final, let a certificate of title to the land described in the application be issued in the name of Claudia Marasigan, as widow and at the same time judicial administratrix of the estate of the deceased Placido Escudero." From this decision, Esguerra appeals to this court and presents five assignments of error.

Under the first three assignments, counsel for the appellant- argues that the "decision of June 8, 1923, was a final adjudication of the alleged facts that the original registration was fraudulent and that the land belonging to Esguerra had been included in the area registered." This contention cannot be sustained. The dispositive clause of that decision shows that it was merely an interlocutory order by which the claimant Esguerra was given the opportunity to file his claim in proper form and present his evidence. Such an order, whether it is called a decision or not, cannot be an adjudication of the ultimate rights of the parties; the court is not in position to finally determine the matter at issue until all the evidence is before it.

Counsel also argues that the court erred in holding that under section 38 of the Land Registration Act, a petitioner for review must show a "derecho dominical o real" before he can become entitled to the reopening of a final decree of registration. The expression "derecho real" is taken from the Spanish translation of the words "estate or interest" found in the English text of section 38, supra, and it is insisted that the two versions are not synonymous. In our opinion the distinction sought to be drawn is too fine to be of any practical importance. The interest referred to in the section mentioned is a real interest and not merely a pretended or imaginary one; in other words, it must be a "derecho real."

It appears that the trial court declined to receive evidence offered by the appellant tending to show that in a composition title upon which the applicant in part relied for his title, the land description was entirely different from that contained in the application for registration, and counsel for appellant maintains that this is a reversible error. We do not think so. The question at issue was whether the petitioner for a review had been deprived of land or any interest therein through the registration in question and the burden was upon him to show affirmatively that he had such interest; if he failed to do so, the decree would stand and could not be disturbed. In the circumstances, the court was, therefore, justified in requiring the petitioner for review to show affirmatively that his legal interests were adversely affected by said registration before allowing him to reopen the case as to the whole tract described in the decree and of which the portion claimed by the petitioner was only a fraction. It may also be noted that the fact that a composition title does not correctly describe the land subsequently registered is not of controlling importance if, as here, it is shown that the land is that of which the holder of the title went into possession and of which he remained in possession for a sufficient length of time to acquire title by prescription and to meet the requirements of the Public Land Act as to registration.

The fourth and fifth assignments of error relate to questions of fact in regard to which the findings of the court below are, in our opinion, fully sustained by the evidence. We agree with that court in its appreciation of the testimony of the witness Marto Encarnacion.

The judgment appealed from is affirmed with the costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

[1] Escudero and Marasigan vs. Director of Lands (44 Phil., 83).

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