

MANUEL LOPEZ CASTELO, APPLICANT AND APPELLANT, VS. THE DIRECTOR OF LANDS ET AL., OBJECTORS AND APPELLEES.

G.R.No. 24273. January 12, 1926

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an appeal by the applicant in a land registration case from a decision of the Court of First Instance of Mindoro denying the registration of various portions of the land described in the application.

The application for registration was filed in the year 1914, the land being described as follows:

"A parcel of agricultural land situated in Subaan, barrio of Tacligan, poblacion of San Teodoro, in the jurisdiction of the township of Calapan, of the Province of Mindoro, Philippine Islands, bounded on the north by the sea; on the south by the River Gumalpong; on the west by the lands of Modesto Alcones, Leon Redama and Macario Arguelles; and on the east by the lands of Pedro Quiambao, Patricio Dimalibot, Ambrosio Alban and the River Catmon. Said property has an area of 937 hectares and 50 ares."

The document under which the applicant claims title to the land is a possessory information issued in 1894 and in which the land is described as situated in the place of Subaan, barrio of Tacligan, township of Calapan, and bounded on the north by the sea; on the south by the mountain; on the west by the lands of Alejandro Alcones and Lucas Gonzales; and on the east by the land of Alipio Alcones. The area is not stated.

A large number of oppositions to the registration of the land was presented and the case was not finally decided by the Court of First Instance until November 24, 1924. A range of hills called "Monte Lumang-Bayan" traverses the land described in the application from east to west, and in its decision the trial court held that this range must be considered "the mountain" referred to in the possessory information as the southern boundary of the land. The court therefore denied the application as to the land situated to the south of the hills mentioned and ordered that, upon the corresponding amendment of the plan, the land situated to the north, with the exception of a small parcel in the eastern part of the land marked on the plan accompanying the application as "IpD-70, connection," be registered in the name of the applicant.

The principal point of controversy is the location of "the mountain" above-mentioned, the appellant contending that it must be Mount Alcon, and that he therefore is entitled to the registration of the entire tract described in his application. At first blush the appellant's contention seems plausible, but in our opinion it is sufficiently refuted by the uncontradicted testimony that Mount Alcon is situated very far from the land, and that between that mountain and the River Gumalpong which forms the southern boundary of the land described in the application, there is an extensive plain completely cultivated by persons other than the applicant. It is further to be noted that while the possessory information was issued under the provisions of article 19 of the Royal Decree of February 13, 1894, the so-called Maura Decree, and that it therefore, with a proper land description, might be considered equivalent to a title obtained by composition gratuita, it can hardly, in this instance, by reason of the vague and imperfect description of the land, be so considered unless accompanied by actual possession. The weight of the evidence

shows clearly that the southern half of the land described in the application, so far from being in the possession of the appellant, is to a very large extent occupied by persons who, by themselves and through their predecessors in interest, have been there under a claim of ownership for more than the length of time required for the acquisition of prescriptive title.

The parcel marked "Ipd-70, confliction" was excluded by the court below on the ground that it had already been declared the property of the Government in land registration case No. 9560, instituted under the provisions of section 61 of Act No. 926. The appellant maintains that neither he nor his predecessors in interest had actual notice of the proceedings in said case; that he therefore was not a party to the action; and that the decision therein is not binding upon him. This question was decided adversely to the appellant's contention in the case of *Aquino vs. Director of Lands* (39 Phil., 850), as well as in other decisions of this court. A land registration proceeding is in the nature of a suit in rem; the decree entered therein operates directly on the land and, in the absence of fraud, is "conclusive upon and against all persons" (section 1, Act No. 496) though they may not have received actual notice of the proceedings.

The decision appealed from is affirmed with the costs of this instance against the appellant. So ordered.

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

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