

HEIRS OF MAXIMO LUNO ET AL., APPLICANTS AND APPELLANTS, VS. POLICARPO MARQUEZ, OPPONENT AND APPELLEE.

G. R. No. 24698. March 11, 1926

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This is an action concerning the registration of two lots, No. 4 of Record No. 1009, and No. 2 of Record No. 651, said proceedings having been instituted by Potenciano Luno and Policarpo Marquez, respectively, and which are adverse to each other, as to a portion marked in their respective plans and included in said two lots.

The Court of First Instance of Nueva Ecija, which tried the case, denies the application in proceeding No. 1009, as to the whole of lot No. 4, and adjudicated lot No. 2 of proceeding No. 651 to Policarpo Marquez and his wife, excluding the portion in question.

These spouses did not appeal from said judgment, but the heirs of Maximo Luno did, assigning error to the action of the lower court in holding that the possessory information Exhibit D does not include lot No. 4 sought by them to be registered.

Besides the variance between the description of lot No. 4 in the plan Exhibit A, and that contained in the document Exhibit D, there is the fact that the evidence adduced by the appellants in support of their application is insufficient. They have not shown that they were in possession of said lot and were cultivating the same, and admitted that the portion in question was held and being cultivated by Policarpo Marquez.

The lower court committed no error in denying the application of the appellants as to lot No. 4 of this proceeding, for the reason that it had not been proven that the document Exhibit D included said lot. But even assuming that it did include said lot, and supposing that such an error was committed, it would not affect the result of the case on account of the insufficiency of the evidence of the appellants as to their possession and cultivation. The possessory information alone, without proof of actual, public and adverse possession of the land under claim of title for a sufficient time in accordance with law, is ineffective as a mode of acquiring title under Act No. 496.

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

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

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