

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, APPLICANT AND APPELLANT, VS. VICENTE FRANCO, OBJECTOR AND APPELLEE.

G. R. No. 24913. September 03, 1926

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an appeal by the Government of the Philippine Islands from a judgment of the Court of First Instance of Occidental Negros, ordering that lot No. 70 in cadastral case No. 26 of said province (G. L. R. 0. Record No. 214) be registered in the name of the appellee Vicente Franco.

The assignments of error relate only to question of fact in regard to which we are not prepared to say that the findings of the court below were erroneous. The appellee has presented as evidence a certified copy of an entry in the registry of property of a possessory information, recorded on April 17, 1895, for a tract of land of 200 hectares, more or less, and described as follows: Bounded on the north by the River Sicaba and the land of Nicolas Gapanaga, Estero Cambuciao and the land of Juan Jardeliza; on the east by the sources of the streams Nabuligan and Mañgocñgoc; and on the south and west by the said stream Mañgocñgoc and the River Gimaruyan. According to the appellee's testimony the lot here in question represents the northern part of the land described in the information posesoria, embraces about 60 hectares and is described as follows: Bounded on the north by lot No. 394, Marcela Segovia vs. Insular Government; on the east by lot No. 49 claimed by Domingo Franco; on the south by lot No. 46, also claimed by Domingo Franco; and on the west by the stream Mañgocñgoc. The appellant contends that the two descriptions differ so widely, that they cannot relate to the same land. At first sight, this argument seems quite plausible, but from an examination of the sketch plans in evidence, it appears clearly from the location of the various streams mentioned in Exhibit A that lot No. 70 is well within the boundaries of the land described in said exhibit. During the past thirty years a great many changes of boundary men may have occurred and discrepancies in descriptions resulting from such changes are usually of comparatively slight importance, and cannot prevail against well established natural boundaries.

The appellant also contends that the appellee has not sufficiently shown "that he has held possession of the land for the period of time required by section 45, paragraph (b) of Act No. 2874, which requires that the possession and occupation of agricultural lands of the public domain must be open, continuous, exclusive, and notorious, and under a bonafide claim of acquisition of ownership, except as against the Government, since July 26, 1894. This contention cannot be sustained. Exhibit A recites that Juan Salarza, who instituted the possessory information proceedings, held the land for over twelve years prior to April, 1895, and there is testimony to the effect that the appellee Vicente Franco acquired the land by purchase from Juan Salarza in 1899, and has been in possession ever since.

The judgment appealed from is affirmed without costs.

So ordered.

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

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