

MAURO PRIETO, PETITIONER AND APPELLANT, VS. THE DIRECTOR OF LANDS ET AL., OPPONENTS AND APPELLEES.

G. R No. 24987. August 21, 1926

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This proceeding deals with the registration of three parcels of land situated within the jurisdiction of the municipality of Cataingan, Masbate. The Director of Lands, the Director of Forestry and various private individuals filed an opposition.

After due trial, the Court of First Instance concerned rendered a decision denying the registration of the land applied for, with the costs against the appellant.

The latter, through his attorney, appeals from this judgment and assigns the following errors as committed by the trial court.

1. In holding that the parcels applied for are not the same parcels which the applicant had acquired, according to the documents Exhibits A, D and F.
2. In declaring that it cannot be conceived how the area of the land had considerably increased.
3. In not taking into consideration the evidence on the quiet, public and adverse possession of the applicant and his predecessors for more than forty years.
4. In not rendering a judgment on the oppositions presented by the various opponents.
5. In denying the application for registration presented by the applicant.

Upon examining the record it is found that there is sufficient data therein to conclude that the lands described in the documents Exhibits A (pp. 123 and 124 of the original record) and B (p. 147 of the original record) presented by the applicant, are the lands described in his application which initiated the present proceedings and the corresponding plans, because natural boundaries exist which correspond with those noted on the plans and in the documents referred to.

The difference in area between the former and the latter is, indeed, considerable; but, taking into consideration that the measurement of lands today is made with much greater accuracy than during the period when the applicant's original documents were drawn up, we are of the opinion that, the said mentioned natural boundaries being fixed as they are, the conclusion must follow that they are the same lands.

However, the applicant's possession is not sufficiently established in regard to the portions which are the subject-matter of the opposition of the Director of Forestry and the twenty-nine private oppositors, who are Alejandro Hermosa,, Juan Espanol, Francisco Abilong, Alejandro Pagunsan, Torcuato Atibagos, Luis Andaya, Braulio Molo, Fausto Obejero, Carlos Yamson, Isidora Obejero, Mariano Almanzor, Luis Alino, Fructuoso Hermosa, Alejo Bareja, Bernardino Bilaguin, Paulino Tuason, Juliana Belarmino, Tomas Baybayon, Juan Baybayon, Placido Yamson, Salvador Baybayon, Gaspara Ramirez, Luciano Malipot, Toribio Cerillo, Rosalio Briosos, Benigno Sampaga, Graciano Baybay, Leon Abejuela and Mariano Adigui who have proved that they have

been possessing and cultivating the lands claimed by them within those sought to be registered in these proceedings under claim of ownership and for such a period of time that, in connection with said portions of land, the evidence introduced by the applicant on his possession must be considered to be overthrown.

It is to be noted that Gregorio Yamson withdraw his opposition during the trial of the case, as may be seen from page 240 of the transcript of the stenographic notes.

The public roads which are the subject of the opposition of the Director of Forestry, must also be excluded from the lands, applied for, because, at all events, they will have to be excluded under the provisions of section 39, paragraph 3 of Act No. 496.

During the trial of the case the applicant withdrew his application in regard to the portion claimed by Basilio Pellejera (see p. 86, t. s. n.). In regard to the remaining portions as to which no opposition has been filed with the exception of that of the

Director of Lands, we find, as above stated, that the lands, the subject-matter of this application for registration, are sufficiently identified by the oral and documentary evidence presented by the applicant and, furthermore, we find that the evidence introduced by the latter in regard to his possession and ownership is sufficient to grant his application for registration.

Therefore, affirming the judgment appealed from as far as it is compatible herewith and reversing it as far as it is not, it is ordered that the registration of the lands, the subject-matter of this proceeding, be made in the name of the applicant and his wife, after excluding therefrom the public roads referred to in the opposition of the Director of Forestry and the portions of land claimed by the twenty-nine oppositors named Alejandro Hermosa, Juan Espanol, Francisco Abilong, Alejandro Pagunsan, Torcuato Atibagos, Luis Andaya, Braulio Molo, Fausto Obejero, Carlos Yamson, Isidora Obejero, Mariano Almanzor, Luis Alino, Fructuoso Hermosa, Alejo Bareja, Bernardino Bilaguin, Paulino Tuason, Juliana Belarmino, Tomas Baybayon, Juan Bay-bayon, Placido Yamson, Salvador Baybayon, Gaspara Ramirez, Luciano Malipot, Toribio Cerillo, Rosalio Brioso, Benigno Sampaga, Graciano Baybay, Leon Abejuela y Mariano Adigui, respectively, besides the portion claimed by Basilio Pellejera which the applicant renounced during the trial.

The exclusion above ordered shall be made after presentation by the applicant of amended plans duly approved by the Bureau of Lands. This decision is rendered without any express finding as to costs. So ordered.

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

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