

PEDRO MONTES, PETITIONER, VS. THE COURT OF FIRST INSTANCE OF TAYABAS AND THE GOVERNMENT OF THE PHILIPPINE ISLANDS (THROUGH THE DIRECTOR OF LANDS), RESPONDENTS.

G.R. No. 25011. January 27, 1926

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-25011/>

OSTRAND, J.:

This is a petition for relief under section 513 of the Code of Civil Procedure from a judgment in cadastral case No. 6 of the Province of Tayabas declaring lot No. 65 in that case public lands.

The petitioner alleges "that he, as well as his father Anselmo Montes, before him, were and are the owners of a tract of land situated in the said municipality and province and more particularly described in the document hereto attached marked Exhibit A and made a part hereof, said document being a certified copy of its original which said original was offered in evidence in case No. 846, G. L. R. O. Record No. 20471 of the Court of First Instance of Tayabas, the particular tract of land in question being the second one described and mentioned in said Exhibit A;

"That said tract of land together with a number of others was included in the cadastral survey made by the Government of the Philippine Islands in or about the year 1920, which survey was later made the basis for a cadastral case filed in the Court of First Instance of the Province of Tayabas, entitled 'The Government of the Philippine Islands vs. Anastacio Abadilla et al.' and registered therein as case No. 6, G. L. R. O. Record No. 362, which case is generally known as the 'Bondoc Cadastre';"

"That in the survey of the said tract of land made by the surveyors of the Bureau of Lands of the Government of the Philippine Islands same was, without the knowledge and consent of the petitioner, divided into a number of lots among which is lot No. 65 as shown by the plan of said survey, a copy of a portion of which covering and embracing the lands owned by the petitioner and his father is attached hereto marked Exhibit B and made a part hereof;

"That his father Anselmo Montes had been in possession of the land described in said Exhibit A from the year 1861 to and including the date of his death, and that the petitioner inherited the same as the sole and only heir of his father upon the death of the latter and has continued to be the owner of all of said land except the portion thereof described upon said plan (Exhibit B) as lot No. 9, which parcel he sold to one Jorge Guerra, who later disposed of the same to other persons;

"That the possession of said lot No. 65 by the father of the petitioner as well as by the petitioner himself has been open, notorious, public, continuous, without interruption, and with claim and color of title since 1861 to the present time."

The petitioner further alleges that the said case No. 6, G. L. R. O. Record No. 362, was begun on March 27, 1922, under the provisions of Act No. 2874 by the filing by Mr. C. Carballo in his capacity as Assistant Director of Lands of a petition on behalf of the Government of the Philippine Islands in, which all the lands embraced in said cadastral plan, including said lot No. 65, were alleged to be the property of the Government of the Philippine

Islands;

That the petitioner is an ignorant man who can neither read nor write either English or Spanish, and that he is unable to fully understand plans and drawings having reference to locations of particular parcels of land;

That at the time when knowledge came to the petitioner of the fact that the Government of the Philippine Islands was claiming his land to be public land the original of the document Exhibit A was in the hands of one Meliton Brion of San Pablo, Laguna, to whom it had been delivered for use in attempting to make a sale of said property and that the petitioner placed the matter of his claim to said lands in the hands of Attorney Feliciano E. Zoleta of Lucena, Tayabas Province, who, through error and mistake, filed a claim on behalf of the petitioner to a portion only of the property belonging to him, such claim as so filed, covering only lot No. 10 of said cadastral case, no claim through such error and mistake having ever been filed by the petitioner for lot No. 65 of which he is and has been through his predecessors in interest the owner and possessor in good faith without interruption since 1861 to the present time;

That he never received any notice either from the Court of First Instance of Tayabas or any other governmental department or branch of the presentation of the above-mentioned cadastral case No. 846, nor was he ever in any way notified that a hearing would be had regarding lot No. 65, though he did have notice regarding the hearing as to lot No. 10 and appeared at such hearing, and that had he ever received any notice of the hearing regarding lot No. 65 he would have appeared thereat;

That for reasons known only to Mr. Meliton Brion the latter neglected and refused to return to the petitioner the document of which Exhibit A is a copy so that he was unable to present it at the hearing regarding the ownership of lot No. 10 of said cadastral case and plan.

The petitioner further alleges that it was not until on or about September 15, 1925, when the petitioner came to Manila for the purpose of seeking a loan on lot No. 65 or finding a purchaser for same, that he first learned that by an order of the Court of First Instance of Tayabas made in said cadastral case No. 6 on May 26, 1922, said lot had been declared public lands for the reason that no private person had presented any claim for it, and that it was then for the first time that he discovered that through error and mistake his attorney had not filed a claim on his behalf for said lot No. 65; ,

That the order of said Court of First Instance of Tayabas of May 26, 1922, was made upon default and after a general default had been declared against all persons in said cadastral case No. 6 by the said Court of the Province of Tayabas, but that the petitioner had no knowledge or notice of such default or of the fact that his attorney had not filed a claim on his behalf for said lot No. 65 until on or about September 15, 1925, when he came to Manila as above stated;

That the petitioner was unjustly deprived of a hearing upon whatever claim he has or may have to said lot No. 65 by mistake or excusable negligence as shown by the above stated facts.

Exhibit A referred to in the petition is a copy of the record of a summary information proceeding instituted by Anselmo Montes in the year 1872 and in which the land is described as one thousand pitch or tar trees, situated in the barrio of Lumboy of the town of Mulanay, bounded on the north, south and east by the sea and on the west with Mariano Rufo, no area being stated.

Exhibit B accompanying the petition is a blueprint of the plan of a portion of the Bondoc Cadaster and shows that lot No. 66 embraces 905 hectares, 57 ares and 20 centiares, and is separated by a water course from lot No. 10, which contains 277 hectares, 26 ares and 90 centiares, and that lot No. 9 contains 401 hectares, 75 ares and 55 centiares, and is separated from lot No. 10 by Pao Creek.

To this petition the respondent, the Government of the Philippine Islands, demurs on the ground that the facts alleged do not state sufficient cause to entitle the petitioner to the relief prayed for.

In our opinion, the demurrer is well taken. Under section 513 of the Code of Civil Procedure, the relief here prayed for can only be granted "when a judgment is rendered by a Court of First Instance upon default, and a party thereto is unjustly deprived of a hearing by fraud, accident, mistake, or excusable negligence" and the petition for such relief is presented within sixty days after the petitioner learns of the rendition of the judgment. Exhibit A, the record of the summary information proceeding had in 1872, evidences no title to the land but only possession, at that time, of one thousand pitch trees in a certain location and the petitioner's claim to a decree for the land must therefore rest on subsection (b) of section 45 of the Public Land Act (Act No. 2874), which requires proof of "open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, except as against the Government, since July 26, 1894." Exhibit B, which also accompanies the petition and must be regarded as a part thereof, shows that lot No. 65 contains over 905 hectares of land and that the boundaries of the tract are indicated by monuments placed there by the cadastral surveyors. Assuming that the land was agricultural land and that the petitioner was in open, continuous, exclusive and notorious possession and occupation of it sufficient to give him title under the Public Land Act, he was clearly guilty of inexcusable negligence in failing to ascertain that a tract of land of that area and importance had been surveyed and given a separate lot number.

He appeared in the case and presented his claim to lot No. 10 and as that lot and lot No. 65 were separated by a water course, it was to be expected that the two lots would be given separate numbers; that fact in itself was sufficient to put him upon notice. And if the land was agricultural and if he was in occupation of it as such, he must have had full knowledge of the cadastral survey and could readily have obtained the necessary information from the cadastral surveyors. The fact that he was an ignorant man cannot, in the circumstances, be regarded as a sufficient excuse; he was represented in the proceedings by a lawyer and was bound by the latter's mistake, if any.

The demurrer is therefore sustained and, as it is evident that the petitioner's lack of a cause of action cannot be cured by amendment, an order absolute will be entered dismissing the petition with the costs against the petitioner. So ordered.

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

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.