

PEDRO PAMINTUAN ET AL., PETITIONERS AND APPELLEES, VS. THE INSULAR GOVERNMENT ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. 2526. September 10, 1907*

Ponente: WILLARD, J.

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The appellees, Pedro Pamintuan and others, filed a petition in the Court of Land Eegistration, asking that a tract of land in the pueblo of Angeles, Province of Pampanga, having an area of 626 hectares 38 ares and 95 centares be inscribed in their names as owners: The Solicitor-General opposed the granting of the petition on the ground that as to all of the land except 92 hectares and 10 ares no title was shown by the petitioners, and that all of the land except 92 hectares and 10 ares belonged to the Government. The case was tried in the court below and judgment entered for the petitioners as prayed for in their petition. From this judgment the Government has appealed.

On the 14th of December, 1885, the Spanish Government, in accordance with the provisions of the royal decree of the 25th of June, 1880, granted to Wenceslao Pamintuan a tract of land having an area of 92 hectares and 10 ares, described as follows:

"Bounded on the north by the Pasig water course; on the east by land owned by Filomeo Pamintuan and by Government forests; on the south by Government forests, by land owned by Fulgencio Tuason, and by the pueblo of Porac; on the west by the pueblo of Porac."

This is the deed under which the present petitioners claim.

It appears in the case that in 1879 Wenceslao Pamintuan took proceedings to obtain a summary information ad perpetuam. The land described therein had an area of 98 quinones 1 balita 7 loanes and 54 square brasas, but, as suggested by the Attorney-General in his brief in this court, it is evident that he was not able, in his proceedings for obtaining a deed under the royal decree of 1880, to prove his possession of all this land, much greater in extent than 92 hectares, and that the only land the possession of which he was able to prove was the land described in the deed of 1885. The petitioners' claim in this case must, therefore, rest on that deed.

The court below decided that the land described in that deed is the identical land described in this petition, although the land included in this petition is almost seven times as great in area as the land set forth in the deed. It based its decision upon the oral testimony of two witnesses and upon the proposition of law that where there is a difference between the area of a tract of land and the natural boundaries thereof, the latter must govern.

In order to determine whether the result arrived at by the court below was or was not correct, it becomes necessary to examine with some care the evidence of these two witnesses. One of them, Juan Daluson, gave the names of some of the adjoining owners at the time when the Government grant was made and at the present time. This witness did not state upon which side of the land any one of these adjoining owners lived. He did not mention in his testimony the water course Pasig, which, according to the Government deed, bounds the land upon the north; nor did he mention the district of Porac, which, according to said deed bounds the land upon the west and forms a part of its southern boundary.

The other witness, Cesareo Tolentino, gave the names of some of the adjoining owners and indicated upon which side of the land in question they had lived or are now living. He mentioned the name of Filomeno Pamintuan, which is found in the Government deed, but he said that he was an adjoining owner toward the south. He did not mention by name the water course Pasig; nor did he mention the lands in Angeles and in Mabalacat, which, according to the plan attached to the petition, form more than one-third of the boundary of the tract sought to be registered. After giving the names of several adjoining owners he was asked who were the others, and he answered that all the others were in the jurisdiction of Porac and that he did not know the boundaries of that part of the land. This statement becomes most significant when it is observed that according to the Government deed the entire western boundary and part of the southern boundary is this same district of Porac. Another significant statement of this witness was to the effect that the land of Pamintuan is almost entirely surrounded by a canal. An examination of the map attached to the petition will show that if the 92 hectares described in the Government deed are situated, as we believe they are, in the extreme eastern end of the land sought to be registered, this statement would be partially true. According to that plan, while there are water courses upon the northeast and southeast of the land, there is no indication of any water course toward the west of the land, which seems to be three-quarters of the whole.

It also appears from the testimony of these two witnesses that all of the persons whom they name as former or present owners of adjoining land, with one exception, lived to the east and southeast of this land and as to more than three-fifths of the land described in the plan they name no adjoining owners at all.

The last witness, Tolentino, was the person Who served as a guide for the surveyor who made the plan above mentioned in 1903, and was the person who pointed out the boundaries to him. It is apparent from his own testimony, as has been said above, that he did not know anything about the boundaries of a large portion of the land, and was, therefore, not a competent person to give any information thereon.

It is true that these witnesses were asked if the boundaries of the land at the time the deed was given were the same as the present boundaries and that to this question they answered "yes;" but this answer can not prevail against the testimony which they had before given in detail and which showed conclusively that they did not know, or at least did not give the boundaries of more than a very small portion of the land described in the petition.

While the proposition of law laid down by the court below may be true to the effect that natural boundaries will prevail over area, yet when the land sought to be registered is almost seven times as much as that described in the deed, the evidence as to natural boundaries must be very clear and convincing before that rule can be applied. No such evidence was given in this case, and the judgment of the court below can not stand.

It seems apparent, however, that the petitioners are the owners of a tract of land in the eastern and southeastern part of the land described in their plan, about 92 hectares in extent, and upon proof of the boundaries of this tract they would be entitled to have it registered.

The judgment of the court below is reversed, and the case is remanded to that court for further proceedings therein, and without prejudice to the right of the petitioners to present an amended petition, accompanied by a new plan, and to have a new trial upon the questions raised by the new petition. No costs will be allowed to either party in this court. So ordered.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

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