

**MARIANO PAMINTUAN ET ALV PLAINTIFFS AND APPELLEES, VS.
THE INSUDAR GOVERNMENT, DEFENDANT AND APPELLANT.***G.R. No. 2538. September 04, 1907*

Ponente: TORRES, J.

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On the 12th of December, 1903, the representative of Mariano Pamintuan and Valentina Torres, husband and wife, filed an application for registration, in accordance with the provisions of the Land Registration Act, of their land situated in the barrio of Dolores, at a place called Babandapu, in the town of Mabalacat, Pampanga, having an area of 850 hectares 91 ares 68 centares and 50 decimeters square, or 50 quiñones more or less, according to the original survey made with brasas realengas; the location and boundaries of the land, together with the names of the adjoining owners, are stated in the application, as well as the name of the person from whom the said applicants acquired the dominion over said property.

A further petition was filed on the 6th of February, 1904, asking that they be permitted to amend the description contained in the plan of said property, in the manner stated in the request.

The application was objected to by the Solicitor-General on behalf of the Insular Government, for the reason that it was not alleged nor shown that the aforesaid married couple, Pamintuan and Torres, or their predecessors, had obtained title to said land, either by purchase or composition from the Spanish Government, nor that a possessory information was instituted by them pursuant to the royal decree of February 13, 1894; and also upon the ground that, as it was not proven that said land had become private property through any of the means established by the laws relating to crown lands, it is presumed that it belongs to the Government, without prejudice to the right which the interested parties may have for perfecting their title in conformity with the provisions of Act No. 926, the Public Land Act.

Lieut. Col. IT. C. Carbaugh, judge advocate, by authority of the commander of the Philippines Division, and on behalf of the United States, also objected to the aforesaid application because a portion of the land in question was included within that reserved for military purposes by the President of the United States, Act No. 926 of the Philippine Commission not being applicable to this class of land.

Luis Beliso, on behalf of Maria Asuncion, Francisco and Mercedes Michel, and Maria Ventura, co-owners of the hacienda called Concepción, which adjoins the land in question, also opposed the registration for the reason that, according to the plan submitted, a portion of the said hacienda had been included therein by the applicants who proposed to register the same as their property.

In view of the evidence adduced and of the result of the proceedings the judge rendered a final judgment on the 31st of January, 1905, granting the registration of the land described in the application in favor of the interested parties, Mariano Pamintuan and Valentina Torres, without any ruling as to costs. The Solicitor-General, upon being informed of said decision, moved for a new trial, and the motion having been denied, exception was taken and the corresponding bill of exceptions was submitted.

The matter at issue is the registration of land possessed, cultivated, and sown for years, even before 1839, by its first occupant, Dr. Mariano Henson, from whom by successive transfers the applicants, Mariano Pamintuan and Valentina Torres, derive their title.

Among the several documents offered by the latter in order to prove their dominion over the land there appear in the first place two statements made by witnesses, recorded in a notarial act dated July 11, 1839, wherein appear four witnesses, one of whom is Anastasio Lising, owner of one of the adjoining tracts of land. They testified under oath, in the presence of the notary public of said province, that Dr. Mariano Henson was in possession as the owner of a tract of land of more than 50 *quiñones* which he cultivated and enjoyed in the place called Babandapu, in the town of Mabalacat, Pampanga, on which sugar cane, rice, and vegetables were sown, the boundaries of which are as follows: On the east, the land of the said Anastasio Lising; on the west, the forests of Carion and Pinanabtaban; on the oeste (probably meaning the south), the forests and mountains of Matabid and Lomboy; and on the north, the Parua River. This land is free" from all incumbrances. The other statements are from three witnesses who testified under oath in the presence of the *alcalde mayor*, judge of First Instance of the said province, on the 20th of August of said year, confirming the above statement.

With the above documents of title Dr. Henson obtained on the 3d of September, 1839, from the superior authorities who managed the *Fondos de Temporalidades*, a loan of 3,000 pesos, with interest at the rate of 6 per cent per annum, payable in two years, by a special mortgage of the above-mentioned land, which mortgage was recorded in the registry of mortgages (*Registro de hipotecas*) of this city. And after successive transfers made of the land to different persons according to the documents annexed, the applicants acquired it on the 16th of August, 1876, by purchase from its last owner, for the sum of 13,000 pesos, as set forth in the corresponding deed, of sale of that date.

In view of the fact that Act No. 926, known as the Public Land Act, has been in force since July 26, 1904, it is no longer necessary to investigate and decide whether the applicants, Pamintuan and Torres, are at the present time the owners and holders of said land in Babandapu, and if they are provided with a perfect title of ownership in accordance with the provisions of laws 1, 2, and 14, title 12, book 4 of the *Recopilación de Indias*, y Real Cedula of the 15th of October, 1754.

Paragraph 6 of section 54 of Act No. 926 provides:

"SEC. 54. The following described persons or their legal successors in right, occupying public lands in the Philippine Islands, or claiming to own any such lands or an interest therein, but whose titles to such lands have not been perfected, may apply to the Court of Land Registration of the Philippine Islands for confirmation of their claims and the issuance of a certificate of title therefor to wit:

* * * * *

"6. All persons who by themselves or their predecessors in interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said act of Congress of July 1, 1902, under a bona fide claim of ownership except as against the Government, for a period of ten years next preceding the taking effect of this act, except when prevented by war or force majeure, shall be conclusively presumed to have performed all the conditions essential to a Government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter.

"All applicants for lands under paragraphs one, two, three, four, and five of this section must establish by proper official records or documents that such proceedings as are therein required were taken and the necessary conditions complied with: Provided, however, That such requirements shall not apply to the fact of adverse possession."

It has been established by means of authentic documents, such as the declaration by witnesses, which is a judicial proceeding having the nature of an official and public document admissible as conclusive evidence in an action, unless the contrary be proved, that the said applicants and their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of said land in Babandapu since 1839 to this day peaceably and uninterruptedly, the land, having been cultivated even before the said year and sown with sugar cane, rice, and vegetables since the time of its occupation up to the present date.

Neither during the lifetime of its first possessor and owner nor during that of his successors, nor at present, while in possession of the applicants, has any private individual opposed or questioned such possession as owners of the whole tract of land enjoyed by them. The Government never disposed of it as crown land, and high officials of the Government, upon admitting the same as security for a certain amount due to the State, actually acknowledge that the land in question was not crown land, but that it belonged to the mortgagor, Dr. Mariano Henson, the original predecessor of the applicants.

Considering the terms of the foregoing legal provisions, and the settled fact of the possession of the land in question for more than sixty-four years by successive holders thereof including the present possessors, who have planted thereon various crops, continuously, it is evident that the applicants are protected by paragraph 6 of said section 54 of Act No. 926, and that a *juris et de jure* presumption exists in their favor to the effect that all the necessary conditions for obtaining from the Government a grant of the title have been complied with, and that therefore they are entitled to receive the certificate of title to the land in question in confirmation of their right thereto.

The interested parties have expressly applied for the registration of the property possessed by them as owners, and if they are entitled to this petition because they are within the conditions established by the law in force which protects them, the same should be granted, since it would not be just nor reasonable to render a negative decision which would appear as an opposition to the generous and liberal purposes of the sovereign power for the development of agriculture and the material progress of these Islands.

Notwithstanding the fact that the Public Land Act has not been expressly invoked, and that although the act was passed on the 7th of October, 1903, it only went into effect on the 26th. of July, 1904, that is, months after the application for registration had been presented, to wit, the 12th of December, 1903, yet, when deciding a case, the courts must see to it that their determinations conform to the law in force and applicable, and with a greater reason if by means of such later law a right has for the first time been declared which, though it may originate in a matter subject to former laws, yet is not prejudicial to a third party.

The Attorney-General appeared on behalf of the Government and was a party to the proceedings. The failure to summon the Director of Lands is not an important defect in this particular case, inasmuch as the purpose of the law in providing for such summons is that the Government may be informed of the request for registration, thus affording it an opportunity to enforce its rights by means of its representative, the Attorney-General, and this has been accomplished.

However, even if the possession of the land of the area as alleged by the applicants has been proven, and paragraph 6 of section 54 of Act No. 926 were applicable to them, nevertheless it is not proper to affirm the judgment appealed from, in view of the remarkable difference in the area and the boundaries of the lands referred to in the documents presented by the applicants, purporting to be title deeds, and those described in the petition for registration, and also because of the absence of proof of the identity of., the property.

It appears from the deed of purchase dated August 16, 1876, that the land acquired by the applicants has an area of 50 guñones more or less, and that it is bounded on the east by the lands of Anastasio Lising; on the west by

forests of Carion and Pinanabtaban; on the south by the mountains and forests of Mabatid and Lomboy; and on the north by the River Parua. Both the area and the boundaries almost agree with the former and original documents of said land.

But in the petition for registration filed with the office of the register of deeds, with the exception of the River Parua, different boundaries have been designated showing an area of 850 hectares, 91 ares, 68 centares, and 50 decimeters square, which is greatly in excess of the 50 quiñones stated in said document, and for which no reason is given.

This great difference as regards the area and the boundaries should be properly explained, and the identity of the property, the exact area thereof with its true boundaries and the possession of the land now enjoyed by the applicants beyond the limits marked in their own documents, should be proven in a satisfactory manner.

In view of the foregoing considerations, we are of opinion that the judgment appealed from should be reversed, and that the case should be remanded to the court whence it came in order that a new trial be held on the issues above stated, without the necessity of retaking the evidence already produced, and, in consideration thereof and of such additional proofs as may be adduced by the parties, the court will enter judgment in accordance with the law, without any special provision as to costs in this instance. So ordered.

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

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