

**LUCIO ONGSIACO Y SORIANO, PETITIONER AND APPELLANT, VS.
OLIMPIA MAGSILANG, GERVASIO MANLONG, AND MARIANO
SAGKAL, OPPONENTS AND APPELLEES.***G.R. No. 26398. April 02, 1927*

Ponente: STREET, J.

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This appeal has been brought by Lucio Ongsiaco y Soriano for the purpose of reversing a decision of the Court of First Instance of Pampanga, in the expediente No. 708, G. L. R. O. Record No. 27523, denying the petition of the appellant for the registration of the land referred to in the petition, located in the barrio of Mandili, municipality of Candaba, Province of Pampanga, containing an area of about 212 hectares, and fully described in plan Exhibit A.

An intelligent presentation of the case must begin with the fact that on June 13, 1917, the same petitioner instituted a proceeding to secure the registration of a parcel of land located in the barrio of Mandili, municipality of Candaba, Pampanga, containing an area of about 411 hectares, indicated as lot 1 in the plan presented with said petition. Said petition included the land which is the subject of the present application and also, as part of the same mass, a parcel containing about 197 hectares located to the east of the lot which is the subject of the present application. In that case, in the lower court, an order was entered for the registration of the entire 411 hectares in the name of the applicant, but, upon appeal to this court by the opponents, the judgment was modified, with the result that there was registered in the name of the petitioner only that part of the land consisting of about 197 hectares lying east of the parcel now in question. As to the remainder the application for registration was dismissed. On November 7, 1925, the same petitioner, Lucio Ongsiaco y Soriano, presented the present petition with respect to that part of the land covered by the former petition as to which registration had been denied. It results that the present application is merely a renewal, by the same petitioner, of the former proceeding with respect to the same land as to which he was then unsuccessful. In the proceeding now before us Olimpia Magsilang, Gervasio Manlong, and Mariano Sagkal appeared as opponents with respect severally to three different portions of the parcel, and, taken together, their oppositions cover the whole. The Attorney-General has also appeared on behalf of the Government of the Philippine Islands and entered opposition as to the whole, alleging that the land in question is public land.

It is undoubtedly true that a petitioner who has been unsuccessful in obtaining the registration of land in one proceeding may institute another; but in order to be successful it is of course necessary for him to show either that the court clearly erred in the first appreciation of his title or that the obstacles to registration have been removed (*Henson vs. Director of Lands and Commanding General of the Division of the Philippines*, 37 Phil., 912, 917.) It is hardly to be supposed that when a controversy has been once thoroughly ventilated and decision made against the applicant, the court would reach a different result in the second proceeding upon precisely the same facts and record that were presented before. In a proceeding of this kind, the court cannot ignore what was done in the other case. Our records show that the former attempt to register the same land that is now the subject of application was one of the most contentious cases that has been before us. The opinion promulgated in the earlier case was written

by the Honorable Florentino Torres who, in a very elaborate opinion dealing with every aspect of the case, completely refuted the contentions then made in behalf of the petitioner and demonstrated, first, that the title exhibited by the applicant did not cover the land now in question, and, secondly, that the applicant had not been in continuous possession from 1894 onwards to the extent necessary to justify the inscription of the land by virtue of possession alone, under subsection 6 of section 54 of the Public Land Act (No. 926).[1]

In particular, it was there demonstrated that the applicant had not had possession from the time of the breaking out of the revolution against Spain until the year 1908; and therefore it could not be said that the applicant had been excluded by force majeure during the whole ten years prior to July 26, 1904. The applicant himself admitted in said case the fact that he had abandoned the property at the outbreak of the revolution and had only returned to occupy it in 1908. The opinion written by Justice Torres in the case referred to covers sixteen pages of typewritten matter, and deals with all the contentions of the applicant in the careful and painstaking manner characteristic of the author.

After that opinion had been promulgated a lengthy motion for reconsideration was submitted; and the case was again most carefully gone over by the court. Furthermore, an additional opinion was written by the author of the present opinion, in which the contentions made in the motion for reconsideration were carefully considered and refuted. From that opinion we here extract the following passage:

"In regard to the duration of the petitioner's possession of the land claimed by him, the following facts are admitted, namely, that at the outbreak of the revolution in 1896 every body fled from the barrio of Cauayan-Bugtong, where the land in question is located, and said land remained in a totally abandoned state until 1908. Now, it may be admitted that the petitioner was not prejudiced by the abandonment of possession during the revolutionary epoch, and there is a little proof showing that it was dangerous to live in this locality until 1904. It cannot be denied, however, that there was a break in the continuity of possession between the period of pacification and the time when the petitioner resumed possession of the questioned area in 1908. His possession has, therefore, at best been discontinuous; and it is not permissible to couple his possession prior to 1896 with his possession subsequent to 1908 for the simple reason that he had no title."

An examination of the record upon the present appeal shows that the appellant has practically abandoned his contention as to ever having had a documentary title and bases his right to have the land registered mainly upon claim of continuous possession since 1908. It is true that the petitioner has managed to get into the record, through the mouth of the witness Jose Mariano de Santos, the statement that the petitioner, after having been compelled to abandon the land at the time of the revolution, resumed possession immediately upon pacification, thereby contradicting the fact, so well established in the former proceeding, that possession was not resumed till 1908. This witness, however, is a nephew of the petitioner and has always lived in Manila. Although he claims to have visited the land from time to time since 1890, it is evident that he can have little knowledge, other than by hearsay, of the facts involved in the controversy. The purely artificial character of his testimony is apparent. For the rest the testimony submitted in behalf of the petitioner relative to his occupation prior to the trial of the former case is in substance about the same that was then submitted; and his proof of alleged possession since that trial is answered by testimony equally strong in favor of the opponents, the same who successfully resisted the prior attempt at registration.

In his brief opinion disposing of the present application in the court below the trial judge found as a fact that the applicant has no documentary title either by composition with the state or possessory information. With respect to possession the trial court observed: "His alleged possession of the land for the time during which he has attempted to prove it, even if true, gives him no right to have the land inscribed in his own name. For this there is required an uninterrupted possession of ten years in the character of owner prior to 1904, when Act No. 926 went into effect, except as interrupted by reason of war."

It is now assigned as error in this court that the trial judge failed to make a sufficient finding with respect to the testimony submitted by the applicant to show possession from 1890 onwards. It is true that the finding of the trial court is in general terms, to the effect that possession was not proved; but in view of the thirty pages, or more, of findings of fact made by this court in the earlier proceeding, we think that it was excusable on the part of the lower court to be concise. Judges of Courts of First Instance are not required to make a digest of the testimony of the witnesses in their decisions or otherwise to set out the evidence. They are only required to state their conclusions upon those matters of fact and law which supply the necessary basis for the decision. In the case before us, the right of the applicant, in its last analysis, depends upon occupation, and the finding of the court that occupation had not been proved was fatal to the right to register. This finding is sufficient.

It will be noted that the trial judge supposed that the provision of law applicable to the case is found in Act No. 926, meaning subsection 6 of section 54 of said Act, as amended by section 1 of Act No. 1908. But Act No. 926 was repealed by section 128 of Act No. 2874, effective from July 1, 1919. The last named Act is a general revision of the earlier Act, and we find in subsection (6) of section 45 of Act No. 2874 a substantial reproduction of the provisions contained in subsection 6 of section 54 of Act No. 926. As the present application was filed in 1925 the provisions of the later Act are applicable and not those of the earlier Act; and so the appellant points out in his brief. But this does not assist the appellant, for upon examination it will be found that the later enactment is less favorable to the appellant, upon the point of duration of occupation, than the earlier Act. Under subsection 6 of section 54 of Act No. 926, as amended by Act No. 1908, open, continuous, exclusive, and notorious occupation for the ten years next preceding the 26th day of July, 1904, except when prevented by war or force majeure, was sufficient to justify registration of public land in favor of the occupant, as against the Government. Under subsection (b) of section 45 of Act No. 2874, the occupation must have commenced before July 26, 1894, and have been continuous thereafter, at least until the date when Act No. 2874 became effective, and possibly until the date of the filing of the application for registration. The long break in the occupation of the petitioner between the beginning of the revolution and his resumption of possession in 1908 is therefore even more obviously fatal to registration in the present proceeding than in the former, to say nothing of adverse possession on the part of the opponents.

But it is said—and this brings us to what appears to be the most vital point in the appellant's contention—that the situation should be dealt with as if the contest had arisen between two individual claimants and that registration should be permitted in favor of the petitioner, for the reason that he has at least been in possession for more than ten years since 1908. In other words the petitioner believes that he has acquired title by prescription, under section 41 of the Code of Civil Procedure, in the ten years immediately preceding the filing of the present petition.

The reply is that the Government of the Philippine Islands, through the Attorney-General, is here claiming the property as public land, and in order to register, as against the Government, it is necessary to show occupation for the period required in the Public Land Law, now Act No. 2874. It is true that in a controversy between private individuals, where the Government has not intervened, and where it appears that the land has ceased to be of public domain and has come to be of private ownership, a petitioner may obtain registration of land upon a title acquired by adverse possession as against individual opponents. The same rule does not maintain with respect to land claimed by the Government and as to which the Government is opposing.

From what has been said it follows that the petitioner's case suffers from incurable defect, and the trial court committed no error in dismissing the petition. The judgment appealed from will therefore be affirmed, and it is so ordered, with costs against the appellant.

Malcolm, Ostrand, Romualdez, and Villa-Real, JJ., concur.

[1] Ongsiaco vs. Director of Lands, R. G. No. 15506, promulgated March 24, 1920, not reported.

JOHNSON, J., with whom concurs VILLAMOR, J., dissenting:

In our opinion the first assignment of error should be sustained and the record should be returned, with direction that the lower court comply with the provisions of section 133 of the Code of Procedure in Civil Actions. We have decided that the provisions of that section are mandatory. From a reading of the decision of the lower court it is impossible to determine what are the particular facts upon which his conclusions are based. The decision of the lower court should be set aside and the record returned to the lower court, with direction that he comply with the provisions of said section.

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