

THE DIRECTOR OF LANDS AND AMBROSIO CRISTAL AND TWENTY OTHERS, PETITIONERS, VS. HONORABLE EDUARDO GUTIERREZ DAVID, JUDGE OF FIRST INSTANCE OF NUEVA ECIJA, VICENTE LOPEZ AND CARME...

G.R. No. 28151. December 24, 1927

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The decision handed down on August 3, 1918, in regard to lot 1897 in cadastral proceeding No. 4, G. L. R. 0. Record No. 103 of the Court of First Instance of Nueva Ecija, reads as follows:

"It having been shown by the evidence adduced at the trial that, except for certain portions of riparian forest land not exceeding 200 hectares covered with trees of the first, second and third groups, along the Patalac, Palasan and Buhay Creeks, all of the land in question has been known for more than forty years to date, as the private property, and in continuous possession, of Antonio Sangabol's father and afterwards of his children and grandchildren as owners, who subsequently sold it to the spouses Bartolome A. Ramos and Jorja Torres, it is ordered that after the portions specified above as containing timber have been segregated from lot 1897, the remaining portion be adjudged to, and registered in the name of the conjugal partnership of Bartolome A. Ramos and Jorja Torres. The cadastral surveyor is hereby ordered, with the aid of the forest inspector, to identify the portions covered by trees of the first, second and third groups, not to exceed 200 hectares, along the aforementioned creeks, and to segregate them from the lot in question, later filing with the court a sketch with the proper technical description, showing the various portions or new lots into which lot 1897 may be subdivided."

No appeal was taken from this judgment.

This lot originally belonged to Antonio Sangabol's heirs from whom Bartolome A. Ramos and his wife Jorja Torres purchased it. But this sale having been subsequently rescinded, Antonio Sangabol's heirs conveyed it to Arsenio Sanguenza, who later also sold it to Fernando Busuego, who, in turn, transferred it to the spouses Fernando Lopez and Carmen Gonzales. In view of these conveyances, the court on January 6, 1922 amended its decision rendered on August 3, 1918, upon petition of the interested parties, and ordered that after the exclusion of the portions not to exceed 200 hectares, pursuant to the judgment of March 3, 1918, this lot be adjudged to, and registered in the name of, the spouses Vicente Lopez and Carmen Gonzales. By the order of the court, Surveyor Silverio Choco accompanied by an inspector appointed by the Bureau of Forestry went to the land for the purpose of locating the portions which could be considered forest land in the segregation ordered. As a result of this action, the provincial fiscal of Nueva Ecija, at the request of the Director of the Bureau of Forestry, filed a petition in the court on May 22, 1923, to the effect that, after an investigation by the said Bureau, it was found that the land included in lot 1897 is not forest land throughout, and he therefore prays that from said lot only a strip of 15 meters on each side of the creeks in the lot be segregated from said lot. The spouses Lopez and Gonzales objected to this petition and made application that all of said lot be registered in their name. On June 11, 1923 this cause

was heard at the request of the fiscal, there being present the said fiscal and the attorneys for Vicente Lopez and Carmen Gonzales, the latter introducing their evidence and the provincial fiscal waiving his right to do the same. On July 9th of the same year, the court's finding that all the said lot 1897 did not contain any portion which might be considered as forest land, denied the provincial fiscal's petition, and ordered the registration of all of the lot in the name of the spouses Vicente Lopez and Carmen Gonzales.

Subsequently, the provincial fiscal of Nueva Ecija, in behalf of the Director of Lands and the Director of Forestry, moved for the reconsideration of this order of the court rendered on July 9, 1923, on the ground that it had exceeded its jurisdiction, but the court denied this reconsideration by an order of October 16, 1923.

During the course of these proceedings in 1919 and the following years, several portions within the 200 hectares of said lot 1897, to which the order of segregation in the decision of August 3, 1918 refers, were occupied as homesteads with the approval of the Bureau of Lands.

The Director of Lands and several of these occupants now file this original petition for a writ of certiorari against Judge Eduardo Gutierrez David of the Court of First Instance of Nueva Ecija, and the spouses Vicente Lopez and Carmen Gonzales. It is alleged that the Court of First Instance of Nueva Ecija acted without jurisdiction in ordering in its decree of July 9, 1923, the registration of all of lot 1897 in the name of the spouses Vicente Lopez and Carmen Gonzalez and in ordering on March 21, 1927 that the latter be placed in possession of the whole of this lot and that the petitioners, except the Director of Lands, be ejected therefrom, without said petitioners having been notified that such an order was to be issued, before it was actually issued. It is alleged, furthermore, that, as the judgment of August 3, 1918, declaring this area of 200 hectares public land and ordering its segregation from lot 1897 had become final, the court had no jurisdiction to issue its order of July 9, 1923 directing the registration of this portion in the name of the spouses Lopez and Gonzales. They pray that this order of July 9, 1923 be declared null.

It should be noted that the judgment of August 3, 1918 did not order the definite segregation of the whole area of 200 hectares from this lot 1897, but an area not to exceed 200 hectares, covered with trees of the first, second and third groups. This segregation, then, had been ordered on the condition that said area was not to exceed 200 hectares and was to be covered by trees of the first, second and third groups. As to this area of 200 hectares, that judgment was not final, since nothing in particular was decided, but on the contrary it ordered further proceedings for the determination of the area to be definitely segregated. The only thing final about that judgment was that the area to be segregated was not to exceed 200 hectares. Hence it was ordered that the portions falling within these conditions were to be located by a surveyor designated by the court and accompanied by an inspector from the Bureau of Forestry. Therefore, in accordance with that decision, any area not exceeding 200 hectares and covered by trees of the first, second and third groups, could be segregated or there could be no segregation if it were found that none of it was covered by trees of these kinds. Consequently, the court's order of July 9, 1923 is in conformity with the judgment of August 3, 1918, and is nothing but a compliance of its command. Hence, it cannot be said that the court quashed a final judgment and therefore acted in excess of its jurisdiction in issuing the order of July 9, 1923. Furthermore, the only parties interested in said lot 1897 when the judgment of August 3, 1918 was rendered, were the spouses Lopez and Gonzales and the Fiscal of Nueva Ecija in behalf of the Director of Forestry and Director of Lands, who took part in all the proceedings that led up to the order of July 9, 1923. The other petitioners in this proceeding occupied portions of this lot only in 1919 and the years following, and do not allege that they appeared in the registration case in which that order was issued; hence they are not entitled to personal notification of the proceedings.

This petition for the writ of certiorari, originally presented to this court on July 30, 1927, was decided on October 3 of the same year.[1] A motion for reconsideration of this decision was filed and granted. Now, setting aside the

decision of this court of October 3, 1927, the petition is hereby denied, without special finding as to costs. So ordered.

Street, Malcolm, Villamor, Ostrand, Johns, and Villa- Real, JJ., concur. Motion granted.

[1[]] 50 Phil., 797.

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