

MATEO CARIÑO, PETITIONER AND APPELLANT, VS. THE INSULAR GOVERNMENT, RESPONDENT AND APPELLEE.

G.R. No. 2869. March 25, 1907

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Mateo Cariño, the appellant herein, on the 23d of February, 1904, filed his petition in the Court of Land Registration praying that there be granted to him title to a parcel of land consisting of 40 hectares, 1 are, and 13 centares, and situated in the town of Baguio, Province of Benguet, together with a house erected thereon and constructed of wood and roofed with rimo, and bounded as follows: On the north, in lines running 1,048 meters and 20 decimeters with the lands of Sepa Cariño, H. Phelps Whitmarsh, and Calsi; on the east, in lines running 991 meters and 50 decimeters with the land of Kuidno, Esteban Gonzales, and of the Civil Government; on the south, in lines of 115 meters and 60 decimeters, with the lands of Talaca; and on the west, in lines running 982 meters and 20 decimeters, with the lands of Sisco Cariño and Mayengmeng.

By order of the court the hearing of this petition, No. 561, and that of Antonio Rebollo and Vicente Valpiedad filed under No. 834, were heard together for the reason that the latter petition claimed a small portion of land included in the parcel set out in the former petition.

The Insular Government opposed the granting of these petitions, alleging that the whole parcel of land is public property of the Government and that the same was never acquired in any manner or through any title of egresion from the State.

After trial, and the hearing of documentary and oral proof, the court of Land Registration rendered its judgment in these terms:

"Therefore the court finds that Cariño and his predecessors have not possessed exclusively and adversely any part of the said property prior to the date on which Cariño constructed the house now there—that is to say, for the years 1897 and 1898, and Cariño held possession for some years afterwards of but a part of the property to which he claims title. Both petitions are dismissed and the property in question is adjudged to be public land." (Bill of exceptions, p. 15.)

The conclusions arrived at and set forth in definite terms in the decision of the court below are the following:

"From the testimony given by Cariño as well as from that of several of the witnesses for the Government it is deduced, that in or about the year 1884 Cariño erected and utilized as a domicile a house on the property situated to the north of that property now in question, property which, according to the plan attached to expediente No. 561, appears to be property belonging to Donaldson Sim; that during the year 1893 Cariño sold said house to one Cristobal Ramos, who in turn sold the same to Donaldson Sim, moving to and living on the adjoining property, which appears on the plan aforesaid to be the property of H. Phelps Whitmarsh, a place where the father and the grandfather of his wife, that is to say, Ortega and Minse, had lived * * *.

"In or about the years 1897 or 1898 Cariño abandoned the property of Whitmarsh and located on the property

described in the plan attached to expediente No. 561, having constructed a house thereon in which he now lives, and which house is situated in the center of the property, as is indicated on the plan; and since which time he has undoubtedly occupied some portion of the property now claimed by him." (Bill of exceptions, pp. 11 and 12.)

- Therefore it is evident that this court can not decree the registration of all of the superficial extension of the land described in the petition and as appears on the plan filed herein, such extension containing 40 hectares, 1 are, and 13 centares, inasmuch as the documentary evidence accompanying the petition is conclusive proof against the petitioner; this documentary proof consists of a possessory information under date of March 7, 1901, and registered on the 11th day of the same month and year; and, according to such possessory information, the land therein described contains an extension of only 28 hectares limited by "the country road to the barrio of Pias," a road appearing on the plan now presented and cutting the land, as might be said, in half, or running through its center from north to south, a considerable extension of land remaining on the other side of the said road, the west side, and which could not have been included in the possessory information mentioned.

- As has been shown during the trial of this case, this land, of which mention is made in said possessory information, and upon which is situated the house now actually occupied by the petitioner, all of which is set forth as argument as to the possession in the judgment, is "used for pasture and sowing," and belongs to the class called public lands.

- Under the express provisions of law, a parcel of land, being of common origin, presumptively belonged to the State during its former sovereignty, and, in order to perfect the legitimate acquisition of such land by private persons, it was necessary that the possession of the same pass from the State. And there is no evidence or proof of title of egression of this land from the domain of the Spanish Government, nor is there any possessory information equivalent to title by composicion or under agreement.

- The possessory information filed herein is not the title to property authorized in substitution for that of adjustment by the royal decree of February 13, 1894, this being the last law or legal disposition of the former sovereignty applicable to the present subject-matter of common lands: First, for the reason that the land referred to herein is not covered nor does it come within any one of the three conditions required by article 19 of the said royal decree, to wit, that the land has been in an uninterrupted state of cultivation during a period of six years last past; or that the same has been possessed without interruption during a period of twelve years and has been in a state of cultivation up to the date of the information and during the three years immediately preceding such information; or that such land had been possessed openly without interruption during a period of thirty or more years, notwithstanding the land had not been cultivated; nor is it necessary to refer to the testimony given by the two witnesses to the possessory information for the following reason: Second, because the possessory information authorized by said royal decree or last legal disposition of the Spanish Government, as title or for the purpose of acquiring actual proprietary right, equivalent to that of adjustment with the Spanish Government and required and necessary at all times until the publication of said royal decree, was limited in time to one year, in accordance with article 21, which is as follows: "A period of one year, not to be extended, is allowed to verify the possessory informations which are referred to in articles 19 and 20. After the expiration of this period the right of the cultivators and persons in possession to obtain gratuitous title thereto lapses and the land together with full possession reverts to the State, or, as the case may be, to the community, and the said possessors and cultivators or their assigns would simply have rights under universal or general title of average in the event that the land is sold within a period of five years immediately following the cancellation. The possessors not included under this chapter can only acquire by time the ownership and title to unappropriated or royal lands in accordance with common law."

- In accordance with the preceding provisions, the right that remained to Cariño, if it be certain that he was the true possessor of the land in question, was the right of average in case the Government or State could have sold the same within the period of five years immediately following; for example, if the denouncement of purchase had been carried out by Felipe Zafra or any other person, as appears from the record of the trial of the case. Aside from this right, in such event, his possession as attested in the possessory information herein could not, in accordance with common law, go to show any right of ownership until after the expiration of twenty years from the verification and registry of the same in conformity with the provisions of article 393 of the Mortgage Law and other conditions prescribed by this law.

- The right of possession in accordance with common law—that is to say, civil law—remains at all times subordinate to the Spanish administrative law, inasmuch as it could only be of force when pertaining to royal transferable or alienable lands, which condition and the determination thereof is reserved to the Government, which classified and designated the royal alienable lands for the purpose of distinguishing them from those lands strictly public, and from forestry lands which could at no time pass to private ownership nor be acquired through time even after the said royal decree of February 13, 1894.

- The advent of the new sovereignty necessarily brought a new method of dealing with lands and particularly as to the classification and manner of transfer and acquisition of royal or common lands then unappropriated, which were thenceforth merely called public lands, the alienation of which was reserved to the Government, in accordance with sections 12 and 13 of the act of Congress of July 1, 1902,[1] and in conformity with other laws enacted under this act of Congress by the Philippine Commission prescribing rules for the execution thereof, one of which is Act No. 648,[2] herein mentioned by the petitioner, in connection with Act No. 627,[3] which appears to be the law upon which the petition herein is founded.

- Section 6 of Act No. 627 admits prescription, in accordance with the provisions contained in Act No. 190, as a basis for obtaining the right of ownership. "The petitioner claims title under the period of prescription of ten years established by that act, as well as by reason of his occupancy and use thereof from time immemorial." (Allegation 1.) But said act admits such prescription for the purpose of obtaining title and ownership to lands "not exceeding more that sixteen hectares in extent." (Sec. 6 of said act.) The land claimed by Cariño is 40 hectares in extent, if we take into consideration his petition, or an extension of 28 hectares, according to the possessory information, the only thing that can be considered. Therefore, it follows that the judgment denying the petition herein and now appealed from was strictly in accordance with the law invoked herein.

- And of the 28 hectares of land as set out in the possessory information, one part of same, according to the testimony of Cariño, belongs to Vicente Balpiedad, the extent of which is not determined. From all of which it follows that the precise extent has not been determined in the trial of this case on which judgment might be based in the event that the adjudication and title be decreed in favor of the petitioner, Mateo Cariño. And we should not lose sight of the fact that, considering the intention of Congress in granting ownership and title to 16 hectares, that Mateo Cariño and his children have already exceeded such amount in various acquirements of lands, all of which is shown in different cases decided by the said Court of Land Registration, donations or gifts of land that could only have been made efficacious as to the conveyance thereof with the assistance of these new laws.

By reason of the findings set forth it is clearly seen that the court below did not err:

"1. In finding that Mateo Cariño and those from whom he claims his right had not possessed and claimed as owners the lands in question since time immemorial;

"2. In finding that the land in question did not belong to the petitioner, but that, on the contrary, it was the property of the Government." (Allegation 21.)

Wherefore, the judgment appealed from is affirmed with the costs of this instance against the appellant. After the expiration of twenty days from the notification of this decision let judgment be entered in accordance herewith, and ten days thereafter let the case be remanded to the court from whence it came for proper action. So ordered.

Torres, Mapa, Willard, and Tracey, JJ., concur.

Johnson, J., reserves his vote.

[1] I Pub. Laws, 1056.

[2] II Pub. Laws, 311.

[3] II Pub. Laws, 288.

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