

**JOSE P. HENSON, PLAINTIFF AND APPELLANT, VS. THE DIRECTOR OF LANDS, DEFENDANT AND APPELLEE.***G. R. No. 30930. January 26, 1931*

Ponente: OSTRAND, J.

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In 1920 cadastral cases Nos. 8 and 9 were instituted in the Court of First Instance of Tarlac for the settlement and adjudication of titles to numerous parcels\* of land situated in the municipality of Concepcion, Province of Tarlac.

Jose P. Henson claimed lots 622, 623, 624, 625, 626, 627, 734, 735, 851, 852, 853, and 1420 of cadastral case No. 8, Record No. 186, and lots Nos. 528, 530, 534, 535, 536, 537, 814, 815, 817, 819, 820, 821, 822, 823, 824, 826, 828, 829, 830, 831, 832, 833 of cadastral case No. 9, Record No. 187. On June 29, 1922, the Court of First Instance adjudicated the lots to Henson, and on August 10, 1922, copies of the decisions were sent by registered mail to the Attorney-General, to the Director of Lands, and to the General Land Registration Office, and at the same time similar copies were delivered to the provincial fiscal and the provincial treasurer of the Province of Tarlac.

In conformity with the ordinary practice, the General Land Registration Office on January 10, 1923, sent notices of the adjudications to the litigants in the two cases. The provincial fiscal, on behalf of the Director of Lands, there upon appealed from the decisions in regard to Henson, and on February 6, 1923, he perfected the appeals by bills of exceptions, and in this court the cases were given the numbers G. R. 20462 and 20463. No objection to the appeals was presented by Henson, and briefs were filed by both parties, and as a final result, this court on October 16, 1923, reversed the decision of the lower court and declared all the lots in question public lands.[1] In 1924, the various lots were distributed among homesteaders who had occupied the land for some time.

On November 26, 1927, Henson brought the present action in the Court of First Instance of Tarlac against the Director of Lands, in which action he seeks to annul the decisions of this court in the aforesaid cases G. R. Nos. 20462 and 20463. In his complaint, he alleges in substance that on July 13, 1927, he was informed that the appeal of the Director of Lands to the Supreme Court in cadastral cases Nos. 8 and 9 should have been taken within thirty days from August 10, 1922, when copies of the decisions of the Court of First Instance were furnished the provincial fiscal of Tarlac who represented the Director of Lands in said cases; that the appeals taken in January, 1923, were presented out of time; that consequently the Supreme Court was without jurisdiction to take cognizance of the appeals and that its decisions in the matter were null and void; and that therefore the original decisions of the Court of First Instance in cases Nos. 8 and 9 remained in full force and effect. In view of such facts the plaintiff prays that judgment be rendered declaring the decision of October 16, 1923, null and void and that decrees of registration in his favor be issued in conformity with the original decision of the Court of First Instance dated June 29, 1922.

The defendant's demurrer to the jurisdiction and to the cause of action was overruled, and an answer to the complaint was filed. Upon trial the court below rendered judgment in favor of the defendant, principally on the

ground that it had no jurisdiction to set aside the decision of the Supreme Court and to order the issuance of the decrees prayed for in the plaintiff's complaint.

Upon appeal to this court the plaintiff contends that the defendant should have perfected his appeal in cadastral cases Nos. 8 and 9, *supra*, within thirty days from the date upon which he received the copies of the decisions of said cases and that the appeals taken after the aforesaid notices of adjudications, were out of time and null and void; that consequently the appellate court had no jurisdiction to take cognizance of the appeals mentioned; and that therefore the decision of the trial court must be considered to be in full force and effect.

Considering that we are dealing with cadastral cases, the soundness of the plaintiff's contention is extremely doubtful. For many years it has been the practice in large cadastral cases to compute the time for the appeals from the mailing or delivery of the notices of adjudication prepared by the General Land Registration Office, and the usefulness of this practice is obvious. In such cases many lots may be ordered divided by the trial court, and the main decisions in a case may be rendered before the divisions have been completed. Mistakes are also often made in the decisions and may, perhaps, not be discovered until they have been examined by the General Land Registration Office. In these circumstances there is hardly any certainty of the necessity for an appeal until the notices of the adjudications have been issued, and it seems reasonable that in reality no appeal ought to be prepared until the corresponding decision has been examined by the General Land Registration Office. But assuming without conceding that this court was without any jurisdiction in taking cognizance of the appeals of the Government in cadastral cases Nos. 8 and 9, it is nevertheless evident that the plaintiff is now estopped from reopening the aforesaid cases. As stated by the Attorney-General:

"The Government's exceptions and motions for a new trial were filed in court, and copies served upon the attorneys for Jose P. Henson, plaintiff herein, on January 30, 1923, with a notice of the fiscal that the same would be submitted to the court for decision on the next motion day, or February 2, 1923. Orders denying these motions were issued by the court and excepted to by the fiscal and, within the period required by law, the bills of exceptions were filed on February 6, 1923, and copies thereof served upon counsel for Jose P. Henson, plaintiff herein, with a notice of the fiscal that same would be submitted to the court for approval on the next motion day, or February 21 of the same year. The bills of exceptions were heard and approved, and the lower court certified them to be correct, forwarding them to this court together with all the evidence. The bills of exceptions were presented and briefs were filed in this court, and the cases were set for oral argument and decisions were promulgated by this court on October 16, 1923. Throughout these long processes, not a slight objection was made by the plaintiff. On the contrary, throughout each and every one of the steps taken from the beginning up to the final settlement of the controversies, the plaintiff herein, then appellee in those cases, submitted to the jurisdiction of this court, and in a well prepared brief the appellant herein (appellee in the former two cases) answered each and every one of the arguments in the Government's brief. Throughout the proceedings in the appeals, the plaintiff herein, then appellee, made this court believe that it had jurisdiction. In fact, for nearly five years after the promulgation of the decision of the Supreme Court in cadastral cases Nos. 8 and 9, and the receipt hereof by the plaintiff, the latter kept silent and took no step whatever to impeach the legality and validity of said decision. During this long period of time, the Director of Lands, relying upon the decision of this court disposed of the lots involved in the present appeal in favor of numerous persons, by homestead grants, sales and leases in accordance with the provisions of the Public Land Act. Acting under the terms of the decision of this court, the Director of Lands, in cadastral cases Nos. 8 and 9, prayed for the issuance of a writ of possession with ejectment on January 15, 1924, with due notice to the plaintiff, which petition was granted by the court in its order of January 16, 1924, by virtue of which the Director of Lands took possession of the premises. To these the plaintiff did not make the slightest objection. By his acts and omissions, therefore, he impliedly and expressly acquiesced in, and agreed to, all the proceedings had and obtained in the cadastral cases from the time the appeal was perfected in the lower court up to the time this court definitely decided the controversies by final judgment. It is very clear, therefore, that the plaintiff not

only waived his objections, but was estopped to deny the jurisdiction of this court in those two cases and the validity of the decisions of this court.

" 'The parties, however, may be estopped to deny the existence of facts upon which jurisdiction depends or waive mere errors or irregularities in the proceedings which do not deprive the court entirely of jurisdiction; and therefore, where a cause is submitted on the merits without objection and a decree rendered, it is too late to question the court's jurisdiction for irregularities after the case has been remitted to the lower court, or on a motion for a rehearing. And the court may acquire jurisdiction of the parties by appearance or other waiver of objections. (3 C. J., 371.)'"

As stated by counsel for the plaintiff, 'this is a suit in equity whereby the plaintiff seeks equitable relief against a judgment rendered by the Supreme Court.' It is a well-known maxim that "equity aids the vigilant, not those who slumber on their rights." In the cases in question, the herein appellant let all objections pass for over four years, and in the meantime, the title to the land involved had been granted other persons in good faith. It is indeed too late to claim that the appeals referred to were unauthorized by law and must be declared null and void (*Glazier vs. Carpenter*, 16 Gray [Mass.], 385; 3 C. J., 371).

The appealed judgment is affirmed with the costs against the appellant. So ordered.

Avanceña, C. J, Street, Malcolm, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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[1] *Director of Lands vs. Henson*, not reported.

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