

**MODESTA BELTRAN, IGNACIO B. QUINTO, JOSE QUINTO, AND
ELIODORO QUINTO, PETITIONERS, VS. HERMOGENES REYES, JUDGE
OF FIRST INSTANCE OF PAMPANGA, SOTERO BALUYOT,
PROVINCIAL SHERIFF ...**

G.R. No. 33383. August 15, 1930

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is a petition for a writ of certiorari. It appears from the record that in the month of January, 1927, the respondent Feliciana Dariano, brought civil action No. 3551 in the Court of First Instance of Pampanga against the herein petitioners to recover possession, as owner, of a tract of land located in the barrio of Santa Cruz, municipality of Lubao, of said province, describing it as follows in her complaint: "A tract of land containing an area of 46 hectares, 8 ares, and 24 centiares. Bounded on the N. by the Caingin River; on the E. by lands previously owned by Francisco de la Rosa and now owned by the defendants; on the S. by Estero Batasan a Malati; and on the W. by the Estero Tatabunan and the Estero Lalam Ungut."

The Court of First Instance rendered judgment in favor of the plaintiff, and upon appeal to this court, the judgment was affirmed,[1] but when the sheriff was ordered to place her in possession of the land, it was found that the land claimed by her embraced a total area of 89 hectares, 33 ares, and 14 centiares. The herein petitioners, defendants in the original case, contended that the plaintiff was only entitled to the area of 46 hectares, 8 ares, and 24 centiares stated in her complaint, and as a result, the sheriff rendered a report to the court below in which he requested instructions as to the identification of the limits of the land.

Upon hearing, the presiding judge, Hermogenes Reyes, on July 12, 1929, issued an order in which he, among other things, said:

"El Juzgado es de opinion que el Sheriff debe informarse de personas desinteresadas acerca de cual era el Estero Pitabunan, puesto que segun las pruebas practicadas ante-riormente, este era en parte el limite divisorio entre ambas propiedades, y entregar a la demandante todo el terreno que esta al oeste del mismo, sin tener en cuenta su extension superficial."

In conformity with that instruction, the sheriff took evidence in the form of sworn statements or affidavits from various persons and in accordance therewith placed Feliciana Dariano in possession of the 89 hectares, 33 ares, and 14 centiares claimed by her under the judgment in the aforesaid case No. 3551.

On or about February 25, 1930, the petitioners filed a motion praying that the order of July 12 be reconsidered and set aside and that any and all steps taken by the provincial sheriff and his deputy be declared null and void, and that in order to properly comply with the final decision rendered in said case No. 3551, a writ of execution be issued ordering the provincial sheriff to deliver to Feliciana Dariano property containing an area of 46 hectares, 8 ares, and 24 centiares with the description and boundaries given in the complaint filed and in the decision

rendered in the case. The motion was denied, and a subsequent motion to the same effect met the same fate, and the present action was thereupon brought. In effect, the petitioners maintain that in civil case No. 3551 the judgment of the Court of First Instance relates only to an area of 46 hectares, 8 ares, and 24 centiares, and that, therefore, the court had no authority or jurisdiction to increase that area after the original judgment had become final.

The petitioners' contention cannot be sustained. In determining the extent of a tract of land in litigation, the area stated in the complaint is not necessarily controlling; areas must yield to boundaries sufficiently described in the pleadings. In case No. 3551, the boundaries were clearly described, and in its decision of the case, the trial court expressly stated that the De la Rosa land, now belonging to the petitioners, was bounded on the west by the Estero Pitabunan, and according to the description in the complaint that estero formed the eastern boundary of the land claimed by Feliciano Dariano. The statement of the lower court upon this point was quoted with approval by the Supreme Court on appeal, and it is evident that the situation and extent of the land in litigation depended on the location of the Estero Pitabunan.

It follows that the respondent judge did not err in directing the sheriff to ascertain the location of said estero and did not exceed his jurisdiction in ordering that the plaintiff in the case be given possession of the land up to the estero.

The petitioners insinuate that the sheriff did not locate the Estero Pitabunan correctly and that he obtained his information in regard thereto from persons who were biased against the petitioners. If this were true, the petitioners might have a good case, but the presumption is that the sheriff performed his duty faithfully, and there is little or no evidence in the record to rebut that presumption.

It may also be noted that the land now held by the petitioners was purchased by them from the De la Rosas, the title deeds showing a total area of 96 hectares, but after awarding to Feliciano Dariano 89 hectares, 33 ares, and 14 centiares claimed by her, the petitioners will still have an area of 110 hectares, an excess of 14 hectares over the 96 hectares as described in the title deeds executed by the De la Rosas. This is a strong indication that the sheriff located the Estero Pitabunan correctly.

The order in question does not constitute a modification of the judgment under execution; it is simply a correct interpretation of a somewhat ambiguous description of the land in litigation. Interpretations of that character, in aid of the execution of a judgment, are not beyond the jurisdiction of the court from which the execution issues, and ordinarily certiorari will not lie. We may say further that, as far as we can see, the present case is on all fours with the case of *Loyola vs. Bartolome* (39 Phil., 544), which was decided adversely to the petitioners' contentions.

The petition for a writ of certiorari is denied, and the case is dismissed with the costs against the petitioners jointly and severally. So ordered.

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

Petition denied.

[1] *Dariano vs. Beltran*, G. R. No. 29463, promulgated December 14, 1928, not reported.

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