

MIGUEL JUGUETA, PETITIONER AND APPELLEE, VS. SALVADOR FERRO, ADMINISTRATOR OF THE INTESTATE ESTATE OF BONIFACIA ALMA, RESPONDENT AND APPELLANT.

G. R. No. 34452. December 18, 1931

Ponente: STREET, J.

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STREET, J.:

This case involves the ultimate stage of a proceeding to register a parcel of land located in the barrio of Lual, municipality of Mauban, province of Tayabas, particularly described in the technical plan Psu-28787, being expediente No. 1960, G. L. R. O. Record No. 27460. In this proceeding Bonifacia Alma was the petitioner,, and the land covered by the application was at first ordered registered in her name as owner. But upon application made by Miguel Jugueta within one year from the issuance of the decree of registration, the decree was set aside with a view to permitting Jugueta to intervene as an opponent and present the proof supporting his claim to the property. Meanwhile both the principal parties have died, Bonifaoia Alma having been substituted by her administrator Salvador Ferro, and Miguel Jugueta being now represented by his daughter Maria.

Upon reconsideration of the case upon the proof submitted by the original petitioner and Maria Jugueta, the trial court in a carefully prepared opinion reached the conclusion it the questioned parcel of land belongs to Maria Jugueta. therefore annulled the earlier decision, vacated the decree, and cancelled the title in favor of Bonifacia Alma, declaring the same void and of no effect, and in place thereof ordered registration to be made in favor of Maria Jugueta, with issuance of the corresponding certificate of title. From this judgment the representative of Bonifacia Alma appealed.

The circumstance which the trial court used in justification of its order opening the decree and ordering a new trial was that the original petitioner, Bonifacia Alma, had failed in her application to name Miguel Jugueta as one of the adjoining proprietors on the south, and in the light of the facts revealed at the ultimate hearing, we are of the opinion that no error was committed in allowing Jugueta to come in and oppose the registration, he having had no notice of the earlier proceeding.

With respect to the merits of the case, although the evidence is capable of different interpretations, which the industry of the appellant's counsel has not failed to utilize, we are nevertheless of the opinion that a fair preponderance of the evidence supports the finding of the trial court, and a clear preponderance of the evidence with respect to possession shows that, as the trial court found, Jugueta had been in possession of the questioned parcel for more than ten years, at the same time paying taxes thereon.

The judgment appealed from will be affirmed, and it is so ordered* with costs against the appellant.

Ten days after the publication of this decision final judgment will be entered, and five days thereafter the record rill be remanded to the court below.

JUDGMENT AFFIRMED.

Malcolm, Oatrand, Romualdez, and Imperial, JJ., concur.

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