

POLICARPO S. MENOR, APPLICANT AND APPELLANT, VS. VICENTE QUINTANS AND CONSUELO SISON, OPPONENTS AND APPELLEES.

G.R. No. 34474. March 23, 1932

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal by the applicant, Policarpo S. Menor, from the judgment of the Court of First Instance of Pangasinan in registration proceeding No. 8457, G. L. R. 0. record No. 33976, the dispositive part of which is as follows :

"Wherefore, let judgment be entered for opponent Consuelo Sison (married to Vicente Quintans of Malasiqui, Pangasinan), as the owner in fee simple of the land north of line 13-38A of the plan Exhibit 2, and upon her filing an amended, plan approved by the Director of Lands, let that portion of land be registered in. her name, under the provisions of the Land Registration Act, with costs against the applicant, Menor.

"When this plan becomes final and the amended plan is filed, let the final decree be issued. So ordered."

In support of his appeal, the appellant assigns the following alleged errors of the trial court to wit:

"1. The trial court- erred in refusing to hold that appellant's ownership of the portion of land in question is res adjudicata, the same having been finally and conclusively determined by the decision of the Court of First Instance of Pangasinan, duly affirmed by this Honorable Court, in civil case No. 4147, G. H. No. 26356, between the same parties.

"2. The trial court erred in adjudicating to the appellees in this case a great portion of the very same land which, according to the final decision in said former case No. 4147, did not belong to them but of which they had attempted to deprive the present appellant by means of fraud and deceit.

"3. The trial court erred in reversing, by means of its decision in this case, some of the important findings of facts made by the same court and confirmed by this Honorable Supreme Court in the former case.

"4. The trial court erred in refusing to hold that the sketch contained in Exhibits X-1, X-2, and X-3, which had been presented in evidence by the appellees themselves in the former case for the purpose of demonstrating to the court the boundaries and configuration of the portion of land there in question, is valid and competent proof against the same appellees in this case for the purpose of identifying the same land.

"5. The trial court erred in finding that the northern boundary of the land donated by Maria Olea to appellant is an imaginary line drawn from west to east beginning at point 13 on the plan Exhibit 2.

"6. The trial court erred in not finding that appellees were estopped by their defense in civil case No. 5019 from claiming that portion C shown on Exhibit X-3 forms part of the land donated by Maria Olea to appellant.

"7. The trial court erred in failing to find that the contention of appellees as to the configuration of the tract of land donated to appellant is wholly incredible.

"8. The trial court erred in attempting to bolster up its decision, in anticipation of a review by this Honorable Court by gratuitously finding that appellant's pretensions depended principally upon his own testimony and credibility (?), and then adding that from his manner of testifying he was not credible.

"9. The trial court erred in not adjudicating and ordering the registration of the portion of land in question in favor of appellant."

The following undisputed facts necessary for a determination of the questions raised in this appeal were established during the trial:

Maria Olea was the original owner of an hacienda containing some 800 hectares of land situated in the municipalities of Malasiqui and Alcala, Province of Pangasinan. On May 20, 1914 she executed a deed donating to the applicant-appellant Policarpo S. Menor a portion of said hacienda of 100 hectares of rice land, which was exuressly and formally accepted by the donee, situated in Pacuan, barrio of Olea, municipality of Malasiqui, Pangasinan Province, bounded as follows: "North and East, the donor Maria Olea; South, Santiago Guevara and Francisco Macasieb; and West, the heirs of Francisko Oribare and others unknown." (Exhibit A-1, pp. 22-24 of Exhibit X-1.)

On November 7, 1917, Maria Olea executed another deed (Exhibit 5) by which she donated to her granddaughter Consuelo Sison, the opponent and appellee herein, a portion of 783 hectares, 72 ares, and 23 centares of the same hacienda, reserving to herself in usufruct sixty hectares in the southwest, this donation having been expressly accepted by the donee with the consent of her husband and cooppositor, Vicente Quintans. This last donation included the hundred hectares which Maria Olea had donated to Policarpo S. Menor by means of the deed Exhibit A-1.

By reason and in the course of the action brought by Ramon Llamas and others against Maria Olea, Consuelo Sison, Vicente Quintans and Policarpo S. Menor, in civil case No. 2901 of the Court of First Instance of Pangasinan, the defendants therein entered into a stipulation (Exhibit X-1, pp. 20-22) on September 21, 1923, the first clause of which reads as follows:

"STIPULATION

"We, Maria Olea, of legal age, a widow and resident of Malasiqui, Pangasinan, P. I., Policarpo S. Menor, of legal age, and Consuelo Sison, married to Vicente Quintans, the last three residing in the municipality of Malasiqui, Province of Pangasinan, in consideration of the reasons herein-after stated, do hereby execute this our agreement, to wit:

"I. That I, Maria Olea, do hereby confirm and ratify the donation to Policarpo S. Menor evidenced by the deed executed by me on May 20, 1914, before Notary Public Valerio Macaraeg, Notarial Register No. 76, page 62, covering the parcel of land situated in Pacuan, barrio of Olea, municipality of Malasiqui, Pangasinan, P. I., more particularly described as follows:

" 'On the North and East it is bounded by land formerly belonging to me, and now to Consuelo Sison; on the South, by land belonging to Benito Mabalot, Zacarias Bacolor and others; and on the West, by land belonging to Francisco Macasieb and Saturnino Guevara. Area one hundred hectares.'

"I also declare that said Policarpo S. Menor is the absolute owner with the right of possession henceforth, of said parcel of land and with full rights to dispose thereof."

When applicant-appellant Policarpo S. Menor discovered from the description of the boundaries given in clause I of the stipulation quoted above, that he had been awarded a parcel different from the one described in the deed of donation Exhibit A-1, which the donor, Maria Olea, confirmed and ratified in said stipulation, he filed a complaint

(Exhibit C) on April 20, 1923, in civil case No. 4147 of the Court of First Instance of Pangasinan, which was amended on December 15, 1925 (Exhibit D), against Vicente Quintans and his wife, Consuelo Sison, praying that the description of the land appearing in the stipulation be corrected so as to read: "Bounded on the North and East by land belonging to Maria Olea (now Consuelo Sison), on the South by land belonging to Francisco Macasieb, Santiago Guevara (now Victormo Guevara) and Benito Mabalot, and on the West by land belonging to Anastasio Desfogado, Francisco Macasieb, and Victorino Guevara;" and that a judgment be rendered in his favor and against said defendants for 2,100 betecs of palay, or the value thereof, amounting to P14,700, being the products unlawfully received by said defendants.

On December 16, 1925, the defendants in that case and opponents herein, filed an amended answer (Exhibit E) denying each and every allegation, of the complaint and alleging by way of special defense that the deed of gift (Exhibit A-I here) is null and void, because it was executed through fraud; that the plaintiff herein never was in possession, either actual or constructive, of the land purported to have been conveyed by such deed of donation; that Maria Olea donated said land not to said plaintiff but to the defendant and present opponent, Consuelo Sison, through the deed of donation dated November 7, 1917, (Exhibit 5 of the present proceeding), who accepted the donation with her husband, Vicente Quintans' consent; that as Policarpo S. Menor insisted upon his contention that he had acquired the land by way of donation, Consuelo Sison, with her husband's consent, and Maria Olea ceded to him by means of the agreement mentioned above, the ownership and possession of a portion of land described in said agreement; and that in executing it Maria Olea never intended to admit the validity of any supposed donation to said Policarpo S. Menor (Exhibit E).

After proper proceedings the trial court rendered judgment on April 17, 1926 (Exhibit X, pp. 32-34), which was amended on April 20, 1926, the dispositive part of which reads as follows:

"Wherefore, let a judgment be entered:

"(1) Ordering the correction of the description of the land given in clause I of the stipulation, Exhibit B, to agree-with that given in the deed of donation, Exhibit A, dated May 14, 1914, and requiring the defendants to execute the necessary document in favor of the plaintiff within fifteen days from the date this judgment becomes final;

"(2) Ordering the defendants to pay the plaintiff the sum of nine thousand eight hundred pesos (P9,800) with interest at six per cent (6%) per annum from the date of this judgment; and

"(3) Making no special award of costs.

"Let the clerk of the court give notice of this amendment" to all parties concerned serving a copy thereof on them,"

Upon appeal this judgment was affirmed by this court on April 2, 1927. (G. R. No. 26356 [1] Exhibit 10.)

In pursuance of this judgment, the defendants Vicente Quintans and Consuelo Sison executed a document (Exhibit 7) on August 26, 1927 in favor of Policarpo S. Menor, correcting the description in clause I of the aforementioned stipulation, Exhibit B, entered into on September 21, 1923, so as to make it agree with that given in the deed of donation (Exhibit A-I), executed on May 20, 1914, in favor of said Policarpo S. Menor.

On August 24, 1927, applicant-appellant Policarpo S. Menor filed another complaint against Vicente Quintans and Consuelo Sison, docketed as civil case No. 5019 of the Court of First Instance of Pangasinan, praying that, inasmuch as the defendants were in possession of the land of which the ownership was litigated in civil case No. 4147 (decided in favor of said plaintiff) and received during the pendency of such action the products thereof for the agricultural year 1926-1927, amounting to 1,600 betecs of palay, they be ordered to deliver to the plaintiff, as

the owner of the land, one-half of said products, or the value thereof amounting to P5,600. (Exhibit F.)

On November 26, 1927, the defendants in that case filed an answer denying each and every allegation of the complaint, and interposed a counterclaim for P17,280 which is the value of the products for three years received by the plaintiff from the land adjudicated to him in accordance with the agreement of September 21, 1923. (Exhibit G.)

By virtue of the judgment in his favor in civil case No. 4147, Policarpo S. Menor instituted these registration proceedings on April 3, 1929, to have the land described in the deed of donation Exhibit A-1 recorded in his name.

The opponents and appellees, Vicente Quintans and Consuelo Sison, filed an opposition to the application on August 7, 1929, which was amended on October 26, 1929 and again on October 30, 1929, claiming the ownership of some forty hectares of the land described in the application, situated to the north of the line drawn from point 13 to point 38A in plan Exhibit 2.

By the authority of the court, these opponents filed another amended opposition on March 10, 1930, whereby Consuelo Sison claimed the land covered by her opposition and petitioned to have it recorded in her name. This portion is described as follows:

"From point 13 of plan SWO—10520 to point 14, thence to 15, thence to 16, and successively to 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, thence following the line 31 to 1, to a point 575 m., more or less to point 38, marked 38A; and thence to point 13 of origin, 744.72 m. With an area of 426,951 square meters."

On March 17, 1930, the applicant and appellant filed a counter-opposition to the aforementioned amended opposition and application, alleging that he was the owner of the portion therein claimed by the opponents, with the exception of a strip of 32,000 square meters to the north and known as "Lowland," and prayed that it be adjudicated to him and registered in his name.

There is no question as to the identity of the land in litigation. Nor is there any question that the parcel of land of 32,000 square meters, situated to the north of the land in litigation and known as "Lowland" or "Tierra Baja" belonged originally to Maria Olea and now pertains to her successor, Consuelo Sison.

The main issue is whether the land in controversy has already been the subject of litigation between the same parties, and whether the judgment therein rendered constitutes *res judicata* in the instant case.":

To resolve this question, the boundaries of the land adjudicated to Policarpo S. Menor in civil case No. 4147 must first be ascertained. The trial court in its decision declared that inasmuch as, according to the description given in the deed of donation Exhibit A-1, the northern boundary of the land donated to the appellant was the land belonging to Maria Olea, said boundary can be no other than the portion on the north of the dividing line 13-38A in plan Exhibit 2. This finding is untenable because that line is more imaginary than real, since there is no sign of demarcation in the form of embankments or landmarks, notwithstanding the possession, for over a number of years, of the two portions by each of the parties. On the otherhand, the property of Maria Olea which, according to the deed of donation Exhibit A-1 adjoins that of the appellant on the north, must be the "Lowland," for there is a natural dividing line between the two parcels of land, consisting of "pilapiles" or embankments. According to the description in the deed, Exhibit A-1, the property is bounded on the west by that belonging to the "heirs of Francisco Oribare and others unknown." Although Anastacio Desfogado's land, who is the predecessor in interest of the "heirs of Francisco Oribare and others unknown at present only extends on its northeastern side to a point in the Mangagayao creek opposite point No. 13 of Exhibit 2, Jose Gimenez being the owner of the property bordering the land now in litigation on the west, nevertheless, it appears that originally Anastacio Desfogado was

the owner of the land, the eastern portion of which borders upon the western side of the disputed land, and sold it to Jose Gimenez on September 28, 1907. (Exhibits Q, P-1, P-2, R, and R-1.)

In the brief filed by the appellees herein, as appellees in civil case No. 4147 (G. R. No. 26356), they admitted that what Policarpo S. Menor claimed therein as the land donated to him by Maria Olea were lots A and B, shown on the sketch appearing on page 14 of said brief (Exhibit X-2). Lot A included the portion herein disputed.

Furthermore, the appellees in filing a counterclaim in civil case No. 5019, mentioned above, claimed to be the owners of portion C of Exhibit X-3, and asked for indemnity on account of its products unlawfully collected by Policarpo S. Menor during the years 1924 to 1927. Therefore, they are estopped from alleging now that said portion is part of the land donated by Maria Olea to the appellant and not its equivalent in area, or the portion in question.

There is, then, identity of party litigants, of the subject matter, and of issue or cause of action, in civil case No. 4147 of the Court of First Instance of Pangasinan (G. R. No. 26356 of this court) and in the present registration proceedings; hence, *res judicata*. In rejecting the theory of *res judicata*, the lower court relied mainly upon the circumstance that in registration proceedings the law permits a defeated applicant to file a new application. This would be a good ground in the case of two applications for registration' filed by one person or his assigns, with reference to one and the same parcel of land, the second application being filed after the first had been dismissed without prejudice to the filing of another, according to section 37 of Act No. 496, for in such a case the dismissal of the first application is not final (*Roman Catholic Archbishop of Manila vs. Director of Lands*, 35 Phil., 339; *Henson vs. Director of Lands and Commanding General of the Division of the Philippines*, 37 Phil., 912). But this is not applicable in an ordinary case regarding ownership of land, determined by final judgment, preceding a registration case, such as the one with which we are now concerned, where the title to the same land is sought to be registered.

Having reached this conclusion, it would be unnecessary to discuss the points raised in the remaining assignments of error.

Wherefore, we are of opinion, and so hold, that a final judgment in an ordinary civil case determining the ownership of a piece of land is *res judicata* in a registration proceeding where the parties and the property are the same as in the former case.

Wherefore, the judgment appealed from is reversed, and Policarpo S. Menor is declared to be the owner in fee simple of the portion of land he seeks to register, covered by his application for registration, and claimed by Consuelo Sison and Vicente Quintans in their opposition; and it is ordered that the said land be adjudicated and registered in his name, with costs against the opponents-applicants appellees, whose opposition-application is hereby dismissed. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Romualdez, and Imperial, JJ., concur.

[1] Not reported

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