

LUCHSINGER & CO., PETITIONER AND APPELLEE, VS. CORNELIO MELLIZA, RESPONDENT AND APPELLANT.

G.R. No. 3596. December 17, 1907

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3596/>

JOHNSON, J.:

The petitioner in this case brought an action in the Court of Land Registration for the purpose of securing the registration of a tract of land located in the city of Iloilo, a more particular description of which appears by the following statement and plan:

"Beginning at a point marked '1' on the plan, which is in a northerly direction 41° E., 15 meters distant from the intersection of the N. and W. line of the sidewalk of muelle Lowney with the S. and W. line of the northern sidewalk of Calle Melliza; from point '1' N. 37° E. following the eastern line of muelle Lowney 35.75 meters to point '2,' thence S. 50° 25' E. 42.45 meters to point '3,' thence S. 43° 05' W. following the N. and W. line of calle Progreso 37.20 meters to point '4,' thence N. 47° 55' W., 38 meters to the point of departure '1,' muelle Lowney adjoining points '1' to '2,' the heirs of Agustin Montilla being the adjoining owners on points '2' to '3,' calle Progreso adjoining points '3' to '4,' and Cornelio Melliza being the adjoining owner at points '4' to '1.'

"The points marked on plan as 'A,' 'B,' 'C,' and 'D' show the limits of a private lane of which both adjoining owners own the one-half which adjoins their premises, and the points 'E,' 'F,' 'G,' and 'H' are the limits of another lane owned also by both adjoining parties."

(See chart in Philippine Reports Vol. 9, p. 377)

After hearing the evidence adduced by the respective parties, the lower court found that the petitioner was the owner of the land described in the said petition and plan and decreed the registration of the same in their favor.

From this decision of the lower court the respondent appealed and made the following assignments of error in this court:

"The Court of Land Registration erred:

"1. When considering 'Exhibit F' of the applicants as relevant evidence.

"2. When considering as proven that the boundary line between the land occupied by the warehouse of Luchsinger & Co. and the land occupied by the house of Cornelio Melliza was the line equidistant from the outer walls of both premises.

"3. When not considering that the boundary line between both lands is the equidistant line between the eaves or roof of the warehouse of Luchsinger & Co. and the eaves or roof of the house of Cornelio Melliza.

"4. When considering that the right of ownership of Luchsinger & Co. extends to a dividing line drawn at an equal distance from wall to wall of the aforesaid premises.

"5. When not considering as proven the right of ownership of Cornelio Melliza to the whole of the land

included within the fence."

The land in dispute between the petitioner and the respondent is a part of the land included between the lines A D and B C in the above plan. The petitioner claims all of the land included within the lines in said plan, 1, 2, 3, 4. The land included within the lines A D and B C, according to the claim of the petitioner, formerly constituted an alleyway or small street. The respondent claims that he owns all of the land included between the lines A D and B C. The petitioner purchased the land within the lines 1, 2, 3, 4, in the year 1873, which fact was verified by Exhibit 2 of petitioner (see Exhibit 2). The respondent, Melliza, purchased a strip of land adjoining that of the petitioner in the year 1875. It appears from the record that the alleyway between the lands of the petitioner and respondent remained open until the year 1886, when the respondent built a wall in front of said alleyway along calle Progreso, which wall contained a door through which parties could go from the street into said alleyway. The record also discloses that the respondent used said alleyway for the purpose of disposing of old iron, and he also constructed a stairway from the alleyway to the second story of his house, which, according to the proof, was located on or near the line A D on said plan.

From the record it appears that, at the time the respondent built said wall, the petitioner sent to him the following letter:

"ILOILO, March 29, 1886.

"Sr. D. CORNELIO MELLIZA, Present.

"MY DEAR SIR AND FRIEND: In view of the fact that one-half of the land lying between your house and warehouse and my stone warehouse on the muelle belongs to me, and as you have had said land fenced in, I must above all reserve all my rights to said one-half of the land, and although I do not object to allowing the fence to remain I ought to have a key to the gate put in by you, in order that I may reach my land whenever I choose to do so. For this reason I pray you to kindly send me a key to said gate and accompany the same with a letter from you recognizing all my rights to the said land.

"Should this not prove satisfactory to you, I would then pray you to forthwith remove the fence.

"Yours, sincerely,

"F. LUCHSINGER.

"The foregoing is a true copy of the original which appears on folio 551 of the letter copybook of Messrs. Luchsinger & Co. consisting of 961 folios, and was commenced at folio 1 on the 19th of November, 1885, and closed at folio 961 under date of July 13, 1886.

"JOSE DE LA RAMA, (Notary Public, until Jan. 1, 1908.)

"ILOILO, P. I., April 11, 1906."

(Exhibit G.)

Later the respondent replied to said letter with the following answer:

"JULY 1, 1886.

"Messrs. LUCHSINGER & Co., Iloilo, Present.

"DEAR SIR: In reply to your kind letters of March 29 and June 15 last, I take pleasure in stating to you that it has never been my intention to impair your rights, as owners of one-half of the land lying between your stone warehouse and my house and warehouse, and that my purpose when fencing it in was simply to prevent undesirable persons from having access thereto at nighttime.

"Herewith I inclose the other key of the gate in order that at your convenience you may enter the said alley, which I hereby agree not to obstruct in any way.

"Awaiting your orders, I remain, yours, faithfully,

"CORNELIO MELLIZA."

(Exhibit F.)

From this answer of the respondent to the letter of the petitioner it appears that the respondent, in 1886, expressly recognized the rights of the petitioner in the one-half of said alley.

From the record it also appears that each of the parties, the petitioner and the respondent, possessed a key to the door through the wall which closed the said alley.

With reference to the above first assignment of error, the respondent contends that the court committed an error in admitting the above Exhibit F in evidence as proof, and relies upon the provisions of paragraph 1 of article 1280 of the Civil Code in support of his contention. Said article 1280 provides that the following must appear in a public document:

"1. Acts and contracts the object of which is the creation, transmission, modification, or extinction of property rights on real property."

Said Exhibit F was neither a creation, transmission, modification, etc., of property rights on real property. It was simply a recognition of a right which already existed and therefore said paragraph 1 of said article does not apply to the present case, and the lower court committed no error in admitting it as evidence for the purpose of showing that the respondent at the time claimed no right or interest in the one-half of said alley immediately adjoining the property of the petitioner. The respondent also recognized the right of the petitioner by permitting the petitioner to retain in his possession a key to the door through the wall which closed the end of the said alley.

We hold, upon an examination of the evidence adduced during the trial of the cause, that one-half of the said alley was the property of the petitioner.

We deem it unnecessary to discuss the other assignments of error made by the appellant. For the reasons above stated, therefore, we are of the opinion, and so hold, that the decision of the lower court should be affirmed with costs. So ordered.

Arellano, C. J., Torres, Carson, Willard, and Tracey, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.