

## **PEDRO P. ROXAS ET AL., PETITIONERS AND APPELLEES, VS. ANASTASIO CUEVAS ET AL., RESPONDENTS AND APPELLANTS.**

*G. R. No. 3637. August 31, 1907*

Ponente: ARELLANO, C.J.

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### **ARELLANO, C.J.:**

The judgment appealed from contains the following statements:

"That on the 22d of December, 1904, application was filed with the Court of Land Registration, whereby the applicants asked for the registration in their name of certain lands situated in the Province of La Laguna, known as Hacienda of Calauang, having an area of 7,813 hectares and 87 ares, valued according to the last assessment at \$525,000 in money of the United States; that the following parties opposed the application: The Government of the Philippine Islands through the Attorney-General ; 367 residents of the town of Calauang, Province of La Laguna, represented by Jose Santiago; 136 residents of the ancient town of Alaminos, now a barrio of the municipality of San Pablo, Province of La Laguna, and three residents of Santo Tomas, in the Province of Batangas, represented by Juan Alvarez; and 80 residents of the municipality of San Pablo, Province of La Laguna, represented by Julian Gerona and Gregorio Pineda.

"That the lands in question were originally Crown lands of the Kingdom of Spain, and were conveyed to one Francisco Xavier Salgado by a royal grant dated February 2, 1777, Salgado being already in possession on the 5th day of March, 1776. That after the death of Salgado his estate was taken in administration by the 'Auditoria de Guerra,' and on the 7th day of February, 1829, the Hacienda of Calauang was sold at auction, one Benito Machado becoming the purchaser for the sum of 16,000 pesos, one-half of which was paid in cash, the purchaser agreeing to pay the balance in three years, giving a mortgage upon the hacienda to secure the satisfaction of the deferred payment. That the purchase by said Machado was made with the funds, in the name, and for the use of one Domingo Roxas; that the latter performed the conditions as to the payment of the remaining one-half of the purchase price and thereupon became the owner in fee of the hacienda, free and clear of any incumbrance; that by various mesne conveyances and in regular order of succession the title to the Hacienda of Calauang became vested in the applicants in this case, who are now the owners of the same in fee, free and clear of all incumbrances, except the lien of a 'censo' in favor of 'Las Cajas de Comunidad,' dated February 26, 1834, for the sum of twelve thousand pesos, bearing interest at the rate of 6 per cent per annum. That in certain proceedings held in the years 1847, 1848, 1878, and 1880, before the courts of the Spanish sovereignty, with the assistance of the inspector general de montes in representation of the Government, various questions and disputes concerning the boundaries and limits of the hacienda with adjoining lands and towns were heard and determined. That pursuant to these proceedings surveys were made by the said inspector general de montes and a plan was prepared by him showing the true boundaries of the hacienda as established by the decisions of the courts and recognized by the Government. The said plan was introduced in evidence and forms part of the record herein, marked 'Exhibit U.'"

In reviewing the case, the court stated the following conclusions of facts:

"(1) That at the time of the entry by respondents upon the lands in question the same were lawfully possessed by another under a good and sufficient title;

"(2) That continued and uninterrupted possession has been maintained by the original owner of the lands and his successors down to the present date; and

"(3) That both prior and subsequent to the entry aforesaid, by respondents and their predecessors, knowledge of the title and legal possession of the true owner was repeatedly brought home to them by means of judicial decrees and official surveys of the lands in question."

And further on:

"The testimony shows that Francisco Xavier Salgado, the original owner of the lands in question, entered into immediate possession of the same under his grant from the Spanish Crown in 1777; that he continued in such possession during his lifetime and that after his death the possession was continued by his legal successors, and has been continued by them without interruption down to the present day, or for a period of one hundred and thirty years. This possession was not a purely constructive but a very active one, exercised by Salgado and his successors by means of actual occupancy, construction of valuable buildings, cultivation, appointment of administrators, collection of rents, measurements, surveys, placing of boundary monuments, and the employment of persons whose duty it was to, and who actually did at stated intervals, inspect the said monuments and attend to their proper maintenance. It further appears that upon two occasions, when infringements upon the rights of the owners were attempted, the aggressors were met by legal proceedings in the courts, resulting in judgments confirming the ancient title and possession. In contemplation of law, applicants have never been out of possession.

"Respondents allege in their answers possession by themselves and their predecessors for periods of from thirty to one hundred years, but their testimony was limited, in most cases, to showing possession by themselves alone. Some went a little further and introduced testimony tending to show possession by their immediate grantors; but that this possession was at best a precarious and doubtful one is clear from the testimony, which shows that in most cases the respondents resided at considerable distances from the lands claimed, having merely made use of the same for agricultural purposes from time to time, under circumstances from which it is fair to infer that their possession was nothing more than a permissive one."

And, lastly:

"There is evidence in the record tending strongly to show that many of the persons occupying lands within the limits of the Hacienda of Calauang were carried upon the books, kept by the administrator of the hacienda, as tenants, and recognized the title of its proprietors. \* \* \*

"For the reasons given (so ends the judgment) the oppositions herein must be overruled; and it is ordered that the record of the above-mentioned documents in the registry of property of the Province of La Laguna be canceled."

And the findings in said judgment are of this tenor:

"The court finds that the applicants have legally acquired title to and are the owners in fee of the lands hereinafter described, and that they are entitled to a decree of registration for the same as provided by law.

"The court surveyor will prepare a new plan in accordance with this decision, showing therein the following-described land, title to which is hereby confirmed to and ordered registered in the name of the applicants in the manner in which the interest of such of the applicants is set forth in the petition."

This judgment was rendered on the 17th of February, 1906. On the 26th of the same month the respondents residing in the town of Calauang, by their attorney, Jose Santiago, duly excepted to said judgment, and announced their intention to present a bill of exceptions. On the same date they also filed an application for a new trial to be held on March 1, alleging as reason "that the evidence produced at the trial by the applicants did not justify the decision rendered." And in the bill of exceptions submitted to this court the appellants state that "on the first

instant (March, 1906) the new trial was denied."

The record does not show that the motion was considered or that the petition for new trial was denied, nor that exception was taken in consequence of such denial.

In accordance with paragraph 3 of section 497 of the Code of Procedure in Civil Actions, if the excepting party filed a motion in the Court of First Instance for a new trial, and the judge overruled the motion, and due exception was taken, the Supreme Court may "review the evidence and make such findings upon the facts, and render such final judgment, as justice and equity require."

Therefore, in this case, there is no basis provided for a review of the evidence, and the findings upon the facts, as set down by the trial court in its decision, must stand.

Under the bill of exceptions presented, this court, in accordance with the said section 497, can only decide the questions of law therein contained.

The questions of law presented in the statement of errors, in which, according to the appellants, the trial court has incurred, are the following:

- For having admitted "Exhibits C" and "D" as evidence from the applicants, the first of which is the instrument whereby the Hacienda of Calauang was acquired by Benito Machado, at public auction, in February, 1829, and the second a statement made by the same party interested in the hacienda, which does not invalidate the deed of sale in favor of Machado. (I and II.)
- For having admitted from the applicants, as counter-proofs and additional evidence, the exhibits stated above, which do not justify the right or dominion of the petitioners on the Hacienda of Calauang, and for having accepted as sufficient proof of dominion the documents offered by the petitioners when the same are not deeds of successive conveyances from the first holder to the petitioners. (III, IV, V, and VI.)
- For not having considered that the land in question belongs to the Government when, as a matter of fact, the exclusion of a parcel thereof, as such Government land, had been ordered; for having included in the judgment land the title to which is recorded in the Court of Land Registration in favor of persons other than the petitioners, said title having been issued by the Government; in view of the fact that the chief of the Bureau of Public Lands had approved several applications for homesteads, according to "Exhibits 1" to "10" of the respondents; since one of the very same petitioners had himself applied for a permit to cut timber within the land in question, (VII, VIII, and IX.)
- For not having considered that the petitioners have exhibited only a title by mere possession, a right which was forfeited for having failed to possess the property during more than eight years; and for having failed to consider the preferential rights of the respondents to the land occupied by them, when the evidence of the latter had not been objected to by the petitioners, in accordance with the agreement entered into by both parties on page 8 of the bill of exceptions. (X and XI.)

This last point touched by the appellants, and by the appellees as well, is extremely important on account of its significance and decisiveness. In fact, it has been agreed between the parties herein that the contents of the answers filed by the respondents may be taken as confirmed.

And it is because the respondents of Calauang have maintained in all their pleadings "that the land claimed by the Roxas people is the property of the Government, and a portion thereof is occupied by the respondents." (Bill of exceptions, 6.) And in the brief filed before this court they maintain "that the Roxas people have alleged, as applicants, that they were the owners of the land in question, and that the respondents residing in the town of Calauang said that the land belonged to the Government \* \* \* " And they reproduce the essential parts of their answer in opposition, wherein the first thing that they state is that the land in question is the property of the

Government. And when referring to the documents offered by them as evidence, they say "that the same clearly establish that the land in question is owned by the Government and not by private individuals." This statement is repeated in several parts of the brief.

If it is the opinion of the appellants that the land awarded by the judgment to the petitioners does not belong to private individuals but to the Government, it follows that the appellants, as respondents residing in Calauang, can have no interest in said land, as they are not the Government but mere citizens.

Since the land belongs to the State, and since the lower court has not so held it in its judgment, the aggrieved party would be the State and not a mere citizen, and it is the State that would have been entitled to appeal from the judgment and not the respondents of Calauang or any other private individual to whom the representation of the State or the Insular Government has not been entrusted.

The Insular Government, duly represented at the trial by the Attorney-General, has not appealed before us, nor have we to decide any question connected with the rights of the State or of the Insular Government.

In order that an application for registration of the title of ownership in the Court of Land Registration may be objected to, pursuant to the provisions of Act No. 496, the opposition must be based on the right of dominion or some other real right opposed to the adjudication or recognition of the ownership of the petitioner, whether it be limited or absolute; and if none such rights of the respondent have been injured by the judgment, he can not have, on his part, the right to appeal from the said judgment, whatever it may be, as neither the said act nor any other law on this matter grants any one the right to appeal on behalf of another party and not in his own name and by reason of his own interest.

It is only the legal personal right of the respondent, prejudiced by the judgment of the lower court, that can be considered by this court upon appeal. No right of their own being claimed by the respondents, and inasmuch as the decision they seek from this court is one declaring that the land adjudicated by the lower court is the property of the Government, there is no way for this court to consider and decide as to a right which has not been claimed in the appeal by the party prejudiced, which in the present case would be the Insular Government, represented by the Attorney-General, who has not appealed from the said judgment. ' Therefore the assignment of errors filed by the appellants is overruled as being absolutely contrary to law and worthless, and the appeal filed by the respondents of Calauang, from the judgment of the 17th of February, 1906, of the Court of Land Registration, is dismissed, with the costs of this instance.

But there is yet another judgment by the same court in this same action, bearing date of the 20th of July, 1906, rendered upon the following facts:

- On account of the opposition to the application in question, filed by the Attorney-General, with regard to a certain tract of land in the Hacienda of Calauang, the Court of Land Registration, in its judgment above referred to, of February 17, 1906, made also this statement:

- "That portion of the application which refers to lands not included in the above description is hereby denied, reserving, nevertheless, the right of the petitioners to file an amended application asking for the registration of the land thus excluded, in accordance with the provisions of the Land Act and in the manner therein provided."

- Although the applicants excepted to this part of the decision, they, however, subsequently availed themselves of the benefits of the said act, and the action was reopened in view of the amended application.

- In his opposition the Attorney-General asked that certain persons who had applied for homesteads be notified in order that their rights might be protected; these persons appeared with Santiago and ratified their former answers in this case. (Minutes of proceedings.)

The court rendered its aforementioned judgment of the 20th of July, 1906, whereby, with the exception of about 213 hectares held to be public forest, it adjudged to the applicants the remainder of the lands which had been excluded by the judgment of the 17th of February, 1906. The Attorney-General agreed to this judgment. Attorney Santiago took exception and on the 31st of July, 1906, announced his appeal.

On the same date a petition for new trial was filed on the ground that the decision was contrary to law, and on the 28th of September of the same year he stated who were the respondents to the amended application, on account of their respective homesteads, to wit: Jose Antilion, Maria Salvador, Mariano Marfori, Gabino Quincaco, Juan Palejon, Domingo Ramos, Brigido Pascual, Leopoldo Atienza, Regino Martinez, Vicenta Jazmin, Magdalena Avapo, Mariano Medel, and Catalino Marfori, on whose behalf the defense excepted to the decision rendered in connection with the amended application. (Petition on p. 188, part 12.)

In the aforesaid petition, as well as in their previous one, the petitioners asked that the last proofs produced by both parties in support of and against the amended application, in connection with the tract of land excluded by the first decision, be included in the bill of exceptions. And upon this basis the appeal was heard together with the former one.

Out of the 1,000 hectares, more or less, excluded from the adjudication, under the judgment of the 17th of February, 1906, the court in its last decision, rendered on the 20th of July of the same year, finally excluded but 213 hectares, and adjudged to the petitioners the remaining 787 hectares, more or less.

If the land claimed by the respondents of Calauang is included within the 213 hectares which have been excluded, and are not adjudged to the petitioners, there is no object in the appeal and the same should be dismissed. If, on the other hand, the same is included in the 787 hectares, more or less, transferred by the judgment of the 20th of July, 1906, the appeal can not prosper because in the last decision the court found as a fact that the petitioners, and not the respondents, have been and are now in possession of the 787 hectares. The thirteen respondents are not, therefore, entitled to the homesteads for the reason that they have not been, nor are they at the present time, in possession of the land included therein.

Be that as it may, the fact is that in connection with the judgment of the 20th of July, 1906, although the aforesaid thirteen respondents excepted thereto, the bill of exceptions announced by them at the time has not been brought before us. Consequently the evidence expressly stated as forming part of the bill of exceptions can not be reviewed, for the reason that the bill has not been submitted with or without the evidence.

And even if submitted, they could not have been reviewed by this court, in view of the fact that the motion for a new trial was made on the ground that the judgment was contrary to the law, a basis which does not authorize the reviewing of evidence taken before a lower court. The motion for a new trial was neither heard nor denied, and no exception was taken as to any ruling denying the same.

The jurisdiction of this court being thus limited to deciding mere questions of law, none of which, except those already set forth in the bill of exceptions to the judgment of the 17th of February, 1906, have been offered in connection with the judgment of the 20th of July following, yet, and in order to avoid confusion, the foregoing remarks are made on points of law that might have arisen on the second appeal.

For the reasons above set forth, the judgments of the 17th of February and 20th of July, 1906, appealed from, are affirmed with the costs of this instance against the appellants. So ordered.

Torres, Johnson, Willard, and Tracey JJ., concur.

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