

RITA GARCHITORENA VIUDA DE CENTENERA, PLAINTIFF AND APPELLANT, VS. HERMOGENES P. OBIAS ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 36385. March 04, 1933*

Ponente: OSTRAND, J.

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The cases G. R. Nos. 36385 and 36547, civil case No. 4783 and Expediente 520, Record No. 37166, of the Court of First Instance of Camarines Sur, are the application by Rita Garchitorena Vda. de Centenera for the registration of four lots or parcels of land with a total area of 2,770 hectares, 77 ares, and 60 centares, and with description and plan attached. This was opposed by the Director of Lands, Director of Forestry, Hermogenes P. Obias, Ramon Alvarez, Jose Alvarez, Januario Alferez, and Mariano, Flor, and Marcel Garchitorena.

Hermogenes P. Obias stated that some 800 hectares belonged to him as part of the land in question, but it seems quite clear that he had only 300 hectares as appears in the application for a lease given him by the Director of Lands, and the court below holds that the land leased by the Government to the opponent Hermogenes P. Obias is unduly included in the Government's plan. Another portion of 18 hectares was acquired by prescription of adverse possession for over ten years in accordance with the provisions of section 41 of the Code of Civil Procedure by a person who sold the portion to Obias, and therefore Obias must be declared owner of the said 18 hectares.

As to the damages claimed by Hermogenes in civil case No. 36385 between himself and Rita Garchitorena, so far as the matter appears, there is not sufficient legal ground therefor, since the evidence did not definitely show whether there was any damage of importance done to the cattle found in the three hundred hectares.

THE QUESTION BETWEEN RAMON ALVAREZ AND RITA GARCHITORENA

From the evidence it conclusively appears that the late Jose Alvarez and his successors had a considerable extent of land in the same place where the applicant's land is situated, and taking also into account that the land was surveyed for purposes of registration, we find that the weight of the evidence indicates that the land claimed by the opponent Ramon Alvarez had been included in the applicant's plan. This land has an area of 500 hectares. According to Ramon Alvarez, it appears that his father, Ibo Alvarez, had held the tract since 1905 and that at the death of said Ibo Alvarez, Ramon Alvarez and his coowner, Jose Alvarez, entered into possession and have remained therein since.

THE OPPOSITION OF JANUARIO ALFEREZ

The weight of the evidence likewise shows that the land is occupied by Januario Alferez, some 24 hectares in area, was also taken in by the applicant, Rita Garchitorena, and that this land is and has been in the possession of said opponent as a homestead from the Government since the year 1917, there being included in the 24 hectares of the homestead some 4 hectares belonging to him privately since the time of the Spanish Government.

THE OPPOSITION OF THE DIRECTOR OF LANDS

The Director of Lands asserts that the land in question has always been public land and that Andres Garchitorena had never been in possession of the same as owner, although, like others residing in the place, he had been grazing thereon about 200 head of cattle.

THE OPPOSITION OF THE DIRECTOR OF FORESTRY

This opposition rests mainly upon the proposition that in the land covered by the application there are mangrove lands as shown in this opponent's Exhibit 1, but we think this opposition of the Director of Forestry is untenable, inasmuch as it has been definitely decided that mangrove lands are not forest lands in the sense in which this phrase is used in the Act of Congress (Montano vs. Insular Government, 12 Phil., 572; and Jocson vs. Director of Forestry, 39 Phil., 560).

THE APPELLANT RITA GARCHITORENA

The finding that the deed, Exhibit A, dated October 2, 1918, is clearly a fictitious document is of no value. The appellant, the daughter of the deceased Andres Garchitorena, could not very well acquire title by prescription or adverse possession against the creditor of her late father in the intestate proceedings. "Heirs having entered as such cannot acquire title to the land descended, as against the debts of the ancestor, by a claim of adverse possession as against the title descended, * * *. Devisees having entered as such cannot acquire title to the lands descended or devised as against the debts of the devisor by a claim of adverse possession as against the title devised. * * *." (2 C. J., 164, secs. 307, 308.)

But notwithstanding that deed Exhibit A was executed in the year 1918, the supposed vendor, Andres Garchitorena, had the land mentioned in said Exhibit A declared in his name and had it reassessed in 1920 (Exhibits 5 and 69). Furthermore, seven months after the death of the supposed vendor, on September 28, 1921, the applicant filed a sworn declaration, Exhibit 79, before the provincial assessor of Camarines Sur, requesting that the tax declaration of the land which is the object of this application, in the name of Andres Garchitorena, be cancelled by another in the name of the said applicant on the ground that she had inherited it from her deceased father in the year 1921. In the application for the registration of the property here in question, the complaint was duly sworn to by Rita Garchitorena, and in this complaint it was alleged that the land in question was the object of the present registration proceedings and was inherited by her from her deceased father without any allegation. It is very clear that it has not been of her own property.

OPPOSITION TO GARCHITORENA BROTHERS AND LI SENG GIAP

The opponents Mariano de Garchitorena, Flor de Garchitorena, Marcel de Garchitorena, and Li Seng Giap claim that the following debts should be paid to the herein persons, namely: (a) To Mariano de Garchitorena by assignment of the Philippine National Bank the sum of P5,500; (b) to Flor de Garchitorena and Marcel de Garchitorena the sum of P5,017.39; and (c) to Li Seng Giap the sum of P2,569.71.

No assets are at present in the hands of the administrator of the estate in question, and the debts referred to in regard to Mariano, Flor, and Marcel de Garchitorena, as well as Li Seng Giap, are not sufficiently identified. (See the "Informe de la Comision de Avaluo y Reclamaciones" found on pages 371-397 in the application for the registration of title on January 30, 1930.) As a consequence, the debts insisted upon by Mariano de Garchitorena, Flor de Garchitorena, Marcel de Garchitorena, and Li Seng Giap, must hereby be dismissed from the registration of title of the 2,770 hectares now in the possession of Rita Garchitorena Vda. de Centenera. In these circumstances, under sections 712 and 713 of the Code of Civil Procedure, the administrator or creditors may

commence and prosecute their actions to final judgment.

The appealed decision will be entered upholding the herein oppositions filed by the Director of Lands, Hermogenes P. Obias (18 hectares), Ramon and Jose Alvarez (500 hectares), and Januario Alferez (24 hectares), all in accordance with the terms of said decision, and after amendment of the plan PSU-66063 so as to exclude the portions of land pertaining to said opponents, the remaining portions shall be registered in the name of the said applicant, Rita Garchitorena Vda. de Centenera.

The complaint in civil case No. 4783 of the Court of First Instance of Camarines Sur in regard to the 300 hectares, is dismissed, and the defendant Hermogenes P. Obias is absolved therefrom. Without costs. So ordered.

Avanceña, C. J., Street, Abad Santos, and Butte, JJ., concur.

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