

THE DIRECTOR OF LANDS, APPLICANT AND APPELLEE, VS. RUFINO ABAD ET AL., CLAIMANTS. THE DIRECTOR OF FORESTRY, CLAIMANT AND APPELLEE; BENITO ESMUNDO AND IGNACIO MESINA, CLAIMANTS A...

G.R. No. 36992. March 07, 1933

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is a cadastral proceeding instituted in the municipality of San Antonio, Province of Nueva Ecija. The Director of Lands in representation of the Government of the Philippine Islands, filed a petition praying that the title of the land in question described therein, containing an area of 5,359 hectares and divided into 933 lots, be settled and adjudicated in accordance with the provisions of section 1855 of the Revised Administrative Code. Ignacio Mesina, Benito Esmundo, Teofilo de Jesus, Angela Aznar, Maximo Magno, Gonzalo de Leon, Macaria Buencamino, Pablo Reyes, Justo Teodoro, Alejandro Pagdanganan, Arsenio Cubangbang, and Victorino Garcia filed answers or claims on many lots. Ignacio Mesina and Benito Esmundo were the only persons who appealed to this court; the other claimants did not appeal.

Ignacio Mesina alleged that he is the owner and has been, together with his predecessors in interest, in possession for more than forty years of lots Nos. 102, 270, 1256, 1260, 1541, 1765, 1766, 2106, 2107, 2108, 2140, 2207, 2208, 2247, 2504, 2527, 2545, 2546, 2549, 2550, 2726, 2735, 2752, 2753, 2754, 2755, 2756, 2757, 2759, 2761, 2762, 2763, 2769, 2771, 2772, 2773, 2842, 2843, 2847, 2871, 2876, 2912, 2913, 2944, 2946, 2947, 2948, 2949, 2950, 2951, 2953, 2954, 2956, 2983, 2986, 3004, 3016, 3018, 3030, 3067, 3080, 3081, 3214, 3215, 3216, 3217, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3271, 3274, 3275, 3276, 3277, 3278, 3279, 3281, 3282, 3283, 3287, 3293, 3317, 3318, 3320, 3321, 3324, 3325, 3326, 3329, 3357, 3358, 3359, 3360, and 3365.

Benito Esmundo filed answers wherein it is prayed that lots Nos. 102, 2504, 2752, 2754, 2755, 2756, 2761, 2762, 2763, 2842, 2871, 2876, 2944, 2945, 2946, 2947, 2948, 2949, 2950, 2951, 2953, 2986, 3030, 3067, 3080, 3081, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3271, 3274, 3275, 3276, 3277, 3278, 3283, 3287, 3293, and 3317 be adjudicated and registered in his favor.

It may be noted that all the lots which are the objects of the present appeal and which have been declared public lands by the court are among those claimed by the Director of Lands as belonging to the public domain, and after a careful consideration of the facts and circumstances, the questions of law involved in the case have found that said lots are of the public domain. Neither the appellant Mesina nor his alleged predecessor in interest have a valid title issued by the Spanish Government.

On October 22, 1860, Nicomedes Cando presented a document (Exh. M-Mesina) to the alcalde mayor praying that he be placed in possession of a parcel of land which he had claimed, situated in the barrio of Aruyan, town of San Antonio, Province of Nueva Ecija, the area of which required 15 cavanese of palay seed and could, perhaps, be

extended to 30 cavanese of seed. It also appears in said document that on November 9, 1860, the alcalde mayor issued an auto ordering that Nicomedes Cando be placed in possession of said land. But these facts alone did not make a valid and efficient title to the land; as we have already stated, the alcaldes mayores had no power to grant public lands, which power was vested in the Intendente General de Hacienda. (See Real Orden of February 15, 1858.) And the Intendentes by the above quoted provisions of the law could not be delegated to the alcaldes mayores or other officials. As we have stated, the amount of 30 hectares seems to be all of the parcel in question.

The document Exhibit H-Mesina does not have the Royal Confirmation which was deemed granted by the provisions of the Real Cedula of March 23, 1728, to those who paid 2 per cent of the value of the lands to the Royal Treasury; it does not appear in said document that Nicomedes Cando had paid the media anata or 2½ per cent of the value of the land as the laws then in force required.

The Real Orden of February 15, 1858, became null and void upon the taking effect of the Real Orden of June 25, 1880, and Nicomedes Cando not holding a title of any sort, it was granted that the aforesaid document had existed prior to the taking effect of the Real Orden of June 25, 1880, and he was required by law to apply for the composition with the State of the land described therein. (Art. 8 of the Real Orden of June 25, 1880.) But such composition has not been presented.

Neither is Exhibit D-Mesina a title to the land described therein. That document is a certified copy of a notice published in the Gazette of Manila in its issue of March 8, 1894, in accordance with article 4 of the "Reglamento para las ventas de terrenos de 26 de enero de 1889." According to said notice, Lorenzo Cando, the son of Nicomedes Cando, had applied for the acquisition of a parcel of land situated in the sitio of Macaladtad, barrio of Aruyan, bounded on the north, south, and west by forest and on the east by uncultivated lands, containing an area of 1,000 hectares, more or less. No other document has been produced in connection with said lots; not even the supposed application of Lorenzo Cando has been produced in evidence. The Exhibit D-Mesina reads as follows:

"PROVINCIA DE NUEVA ECIJA.—PUEBLO DE S. ANTONIO.—Don Lorenzo Cando, solicita la adquisicion de un terreno enclavado en el sitio Macaladtad, del barrio de 'Aruyan' que linda: al Norte, Sur, y Oeste, bosques, y al Este, terrenos incultos; entre estos limites se comprende la superficie aproximada de mil hectareas, segun manifiesta el interesado en su instancia.

"Lo que en cumplimiento del art. 4.º del Reglamento para las ventas de terrenos de 26 de enero de 1889 se anuncia al publico a fin de que en el termino de sesenta dias, a contar desde la fecha de la publicacion de este anuncio, puedan presentarse reclamaciones contra la venta; estas, deberan dirigirse a la Direccion General de Administracion Civil, al jefe de la provincia o al Gobernadorcillo del pueblo en que radique el terreno, y de ellas, se entregara siempre al reclamante el correspondiente resguardo.—Manila, 6 de marzo de 1894. J. GUILLELMI."

As it appears, Lorenzo Cando asked that the land (1,000 hectares) be published for two months, but neither purchase nor money seems to have been seen. The 1,000 hectares seem to have nothing to do with the 30 hectares entered by Nicomedes Cando in Aruyan Creek, San Antonio. In fact, the only person who has paid any tax is Mesina, who purchased a parcel of 40 hectares from Eriberto Cando in 1914. With that exception, neither Mesina nor Esmundo has ever declared the lands claimed by them for land tax purposes, and the alleged predecessors are apparently in the same shoes. It is clear that Mesina is not the owner of the aforesaid 1,400 hectares; the public domain is still in the hands of the Government as far as the record, G. R. No. 36992, shows.

THE OPPOSITION OF BENITO ESMUNDO

Apart from the fact that we find no merit in the appellant Esmundo's claims of title to any of the land here involved, the bill of exceptions which he has filed as the basis of his appeal, is fatally defective and valueless. The last entry which it recites is a telegram his counsel addressed to the Court of First Instance praying for a third extension of time in which to prepare and submit for approval a proper bill of exceptions. There being no showing that this extension was granted, we must hold that the statutory period for such filing had expired.

We may further say that Esmundo's Exhibit 2 is a certificate issued by the gobernadorcillo, to the effect that on November 6, 1888, Benito Esmundo, on behalf of his nineteen companions, all residents of the town, appeared in the Tribunal of San Antonio, Nueva Ecija, and asked said gobernadorcillo that an expediente for the parcel of land described in said certificate be formed. The gobernadorcillo had no special right to give Benito Esmundo 60 hectares, more or less, and the so-called certificate issued by the said gobernadorcillo. The fact is that Benito did not find anything of importance; he was not in any sense the owner of the aforesaid 60 hectares, and he had no title to the land.

Esmundo's Exhibit 1 is a certified copy of an entry book, No. 33, of the Intendente General de Hacienda in Manila, but at the present time, the entry is of no importance. A payment of P244.73 to the Intendente General de Hacienda was not sufficient in 1892, and nothing seems to have been done. Esmundo never paid taxes, and as we have already stated, both he and Mesina have not declared the lands for tax purposes, with the exception that Mesina paid for 40 hectares in 1914 and later. Both Esmundo and Mesina failed to obtain compositions or "Royal Confirmations with the State, and apparently do not hold a valid title of any sort.

As said by the Attorney-General, "the court below did not incur in any of the alleged errors assigned in the briefs for the appellants and its decision denying the claims of said appellants and declaring the lots in question as belonging to the public domain, subject to the rights acquired by public land grantees, is in accordance with the great preponderance of the evidence of record and the law." With that we fully agree.

The judgment appealed from will be affirmed in all its parts, with costs against the appellants. So ordered.

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

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