

**ALFREDO RAMIREZ AND PAZ BAYOT DE RAMIREZ, APPLICANTS
AND APPELLEES, VS. THE DIRECTOR OF LANDS ET AL., OPPOSITORS.
THE DIRECTOR OF LANDS AND THE DIRECTOR OF FORESTRY,
APPELLANTS.**

G. R.No. 36995. April 19, 1934

Ponente: DIAZ, J.

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DIAZ, J.:

In this case the spouses Alfredo Ramirez and Paz Bayot who are Filipino citizens applied for the registration in their name of the parcel of land situated at Liang, in the municipality of Siniloan, Province of Laguna, more particularly described in the plan Exhibit A and annex Exhibit A-1, which is the technical description thereof. Said land has a total area of 203 hectares, 85 ares and 44 centares. The Director of Lands, the Director of Forestry and the municipalities of Siniloan and Famy, of the Province of Laguna, opposed the application of said spouses on the alleged ground that the parcel of land in question is public forestry land which was granted by the Insular Government as communal forests to the above municipalities.

After due hearing which lasted two days according to the decision of the trial court, judgment was rendered therein declaring the applicants the true owners thereof with the right to have the same registered in their name as conjugal partnership property under the provisions of Act No. 496, as amended, and denying all the oppositions filed by the four oppositors aforementioned. Said oppositors took exception to and appealed from the said judgment on the ground that the trial court committed the following six alleged errors, to wit:

"I. The lower court erred in admitting in evidence Exhibit D-2 and in not holding that the same is null and void ab initio.

"II. The lower court erred in finding that the applicants and their predecessors in interest have been in the actual, material and physical possession of the land openly, adversely, publicly and under a claim of ownership before 1888 up to this time.

"III. The lower court erred in not holding that the applicants failed to establish the identity of the land in question.

"IV. The lower court erred in applying section 45, paragraph (b), of Act No. 2874 and in not finding that the land in question belongs to the class of inalienable public land.

"V. The lower court erred in not finding that Tomas Ilao never existed.

"VI. The lower court erred in denying the Government's motion for a new trial."

According to the applicants' evidence, the land in question constituted a third part of a piece of land which, for ten or eleven years prior to the year 1897, belonged to one Tomas Ilao, also commonly known by the name of Tomas Apat, of the municipality of Siniloan, Province of Laguna. The same evidence likewise shows that, after having

been in possession of the said land for nearly ten years, that is, on January 2, 1896, said party obtained from the Spanish Government the title, Exhibit D-2 of the record, wherein it is stated that: Whereas said Tomas Ilao, who was then 52 years of age, married, farmer, and a resident of the municipality of Siniloan, Laguna, had applied for the adjustment with the Government of a parcel of land which he had in the barrio of Liang in the aforesaid municipality and province, the provincial board for the adjustment of lands granted him the title in question on condition that he register it in the registry of deeds within one year. It likewise appears on the third page of the document in question that on April 27, 1896, the same was registered as realty No. 92, Santa Cruz, on page 36 of volume I of the records of Siniloan, which indicates that the condition imposed by the aforesaid board was complied with.

It may be noted, however, that the so-called title (Exhibit D-2) does not bear the dry seal nor the rubric of the Inspector General of Forests nor does it give the maiden name of Tomas Ilao's mother. Furthermore, the first paragraph of the title in question, which refers to the cedula certificate of said person, reads in part as follows:

"* * * whose personal data are attested to by a certificate issued by the 'capitan municipal' thereof on the twenty-third instant, in connection with the cedula certificate 10th class No. 1940344 exhibited to him by the grantee * * *" thereby giving rise to a discrepancy therein because the so-called title (Exhibit D-2), as hereinbefore stated, is dated January 2, 1896, while the certificate in question bears a very much later date. On the third page of the said document it may also be noted that the two numbers "1896", which appear therein as the year when the proceedings therein mentioned were had, have been plainly altered, to wit: the last two figures "96" of the former number and the figures "8" and "6" of the latter, and that the stamped paper which forms said page does not bear the year "1896" but the years 1890-91. However, it is stamped "VALID FOR 1896-97" in red ink. It is also very apparent that the land granted therein to Tomas Ilao has a total area of 300 hectares.

The same evidence of the applicants-appellees likewise shows that twenty-two months and some days after Tomas Ilao had obtained his said title (Exhibit D-2), he sold the land covered thereby to Pablo Villegas for the sum of two hundred Mexican pesos (Exhibits D-1 and D). Thirty years later, that is, on January 7, 1928, said Pablo Villegas, in turn, sold the same land-specified in Exhibit D-2 to Teodoro Kalambakal, stating in Exhibit C that the price thereof was one thousand five hundred pesos. It was only during the time said Teodoro Kalambakal was in possession thereof, that is, on November 8, 1928, that the land in question, which had belonged to Tomas Ilao, was declared for purposes of taxation by the latter purchaser. In his declaration presented to that effect it was stated that the cultivated portion thereof consisted of an area of only two hectares and the uncultivated portion, 298 hectares (Exhibit E). On January 8, 1929, that is, exactly one year and one day from the date he purchased it from Pablo Villegas, Teodoro Kalambakal sold one-third of said property to the herein applicants-appellees, for the sum of four thousand pesos, having executed Exhibit B to that effect, wherein it appears that the portion sold by him had a total area of 100 hectares, although he stated in his testimony that it was 200 hectares. Subsequently, he sold the remaining portion thereof to Mauricio Cruz, which, according to his testimony, had an area of 538 hectares.

On a certain portion of the land in question, there are around one thousand young coffee trees about two years old, which were planted among and under the shade of timber-trees growing on the portion of lot No. 1 of the plan Exhibit A, indicated with the word "coffee". At the points marked 1, 2, 3, 4 and 5 with red pencil on the same plan, there are likewise traces of clearings (caingin) made thereon, approximately five years prior to September 28, 1931, the date of the hearing of the case in the trial court.

On the other hand, the evidence of the oppositors shows that lots Nos. 1 and 2 of the aforesaid plan Exhibit A, which compose all of the land in question, have always been thickly timbered forests and mountains (Exhibits 17 to 29), for which reason many homestead applications have been turned down by the Director of Lands on the

ground that, far from being agricultural in nature, it was forestry land (Exhibits 52 to 62).

Said oppositors contend that instead of admitting Exhibit D-2, the trial court should have rejected it on the ground that it was null and void ab initio. In fact, when the document in question was executed, the Royal Decree of August 31, 1888, was in full force and effect in the Philippine Islands. The decree in question classified public lands occupied by inhabitants, who were private individuals, and which were subject to adjustment with the Treasury, into two groups: the first comprised those which were bounded at any point thereof by other lands belonging to the State, and those which, although entirely bounded by private lands, had a total area of more than 30 hectares, and the second comprised those which had an area of less than 30 hectares' and were entirely bounded by lands of private ownership. The aforesaid Royal Decree provided that adjustment of lands of the first group should continue to be heard and determined by the General Directorate of Civil Administration with the intervention of the Inspector General of Forests. The pertinent provisions thereof relative to the question under consideration, read as follows:

"ARTICLE 1. All public lands occupied by private individuals in the Philippine Islands, which are subject to adjustment in accordance with the Regulation of June 25, 1888, shall be divided into two groups: The first shall comprise those which at any point adjoin other lands belonging to the State, and those which, although entirely bounded by private lands, have a total area of more than 30 hectares, and the second shall comprise those having an area of less than 30 hectares and adjoining only lands of private ownership.

"ART. 2. Adjustment of lands of the first group shall continue to be made in accordance with the proceeding prescribed in the Regulation of June 25, 1880, that is, with the intervention of the Inspector General of Forests, under the supervision of the General Directorate of Civil Administration.

* * * * *

"ART. 4. The different divisions of field personnel (brigadas facultativas) shall be under the immediate supervision and control of the Inspector General of Forests, and the chief of each division shall forward to said Inspector General the records of all cases and the plans drawn by the personnel directly in charge of the work on each piece of land, accompanied by his report thereon. Said Inspector General, in turn, shall make his recommendation as to the action to be taken in each case to the General Directorate of Civil Administration.

"Art. 5. For the adjustment of lands of the second group, there shall be established in each provincial capital a 'provincial board for the adjustment of lands' composed of the Civil or Military-Civil Governor as president, the Judge of the Court of First Instance, the Prosecuting Attorney, the provincial treasurer, if any, the Parish Priest, a continental Spanish freeholder designated by the General Directorate of Civil Administration, the town head (Gobernadorcillo) and 'Juez de Sementeras'. An officer of the Department of Agriculture (Fotnento) shall act as Secretary thereof, without voice or vote. There shall be no such provincial board in the City of Manila, and the disposal of cases for adjustment therein, whatever group they belong to, shall devolve upon the General Inspector of Forests.

* * * * *

"ART. 7. There shall be established in every municipality a local commission composed of a 'teniente de justicia' (in every case designated by the 'Gobernadorcillo' to act by turns in all the municipal districts), the 'Juez de Sementeras', and 'Directorcillo' (town head's secretary) whose duty shall be to inspect the lands in question.

* * * * *

"ART. 10. The town head shall forward the record to the chief of the province on the day following the inspection of the land and the provincial board shall be informed thereof within five days from the date of its receipt. If the record shows that the land under consideration has a total area of more than 30 hectares or is not

entirely bounded by private lands, the board shall refrain from taking any cognizance thereof but shall only forward it to the General Directorate of Civil Administration. Otherwise, it shall designate a day, within 8 days from the date of the session at which it was informed thereof, for the appearance of the owner of the land in question and of those of the adjoining lands, upon whom summons¹ to that effect shall be duly served. Upon their appearance, they shall be requested to show the board whatever rights they may have to the land and the work performed thereon. In the absence of any protest or adverse claim and if the board is convinced that the adjustment should be gratuitous on the ground that the possessor has established his right thereto by prescription as provided in articles 4 and 5 of the Regulation of June 25, 1880, the record shall be approved and the chief of the province, in his capacity as deputy of the General Directorate of Civil Administration, shall issue the corresponding title. Failure of the aforesaid persons to appear before the board for the purpose above referred to, shall not prevent the resolution of the case.

"If protests and claims are filed therein, the protestants and claimants as well as the possessor of the land in question shall be requested to appear before the board which shall immediately pass upon the conflicting claims and render the decision it deems just. The chief of the province shall issue the corresponding title to the property in accordance with such decision."

Pursuant to the provisions of article 17 of the aforesaid Royal Decree, the Overseas Minister (Ministro de Ultramar) issued instructions defining and determining the functions and powers of the provincial boards and local commissions referred to in articles 5 and 7 thereof. Said instructions, which were published in the "Gaceta de Manila" on December 20, 1888, read as follows:

"ARTICLE 1. The provincial boards for the adjustment of public lands shall take charge of the adjustment of those which are situated outside the communal lands and are entirely bounded by private lands, the area of which is less than 30 hectares', whether they be possessed under a just title or not.

"ART. 2. The provincial boards shall likewise take charge of the adjustment of those lands which, having an area of less than 30 hectares, entirely bounded by private property and under cultivation, are situated within the communal lands, whether the possessor thereof be a native or not.

"ART. 3. Uncultivated lands shall not be admitted to adjustment, unless such adjustment had been applied for prior to September 8, 1881, the date on which the period for the filing of applications for lands of this kind expired, in accordance with the Royal Order of July 13, 1881.

"ART. 4. If any of the lands, the adjustment of which devolves upon the provincial boards in accordance with the provisions of articles 1 and 2 of these Instructions, is under cultivation, possessed under a just title, and happens to have an area in excess of that specified in said title, the portion in excess thereof shall be admitted to adjustment if it is cultivated or, if uncultivated, when the adjustment thereof had been applied for prior to September 8, 1881.

"If under cultivation, the adjustment thereof shall be made in accordance with the provisions of paragraphs 1 and 2 of article 6 of the Regulation of June 25, 1880, and if not, adjustment shall be made under paragraph 3 of the same article and Regulation.

"Adjustment of lands the area of which is in excess of the 30 hectares shall correspond to provincial boards only when the area specified in the title together with that of the portion in excess does not exceed that area.

"ART: 5. Adjustments shall be free only in the following cases:

"1. When the land is under cultivation, and has been possessed for ten years under a just title, or for twenty years under no title whatsoever.

"2. When, possessed under just title and there being an excess in its area of not more than one-fifth of that specified in said title, it has been under cultivation.

"In all other cases', adjustment shall be onerous, and the amount which the possessor has to pay to the Treasury shall be governed by the provisions of the Regulation of June 25, 1880.

* * * * *

"ART. 7. Provincial boards shall immediately remit to the General Directorate of Civil Administration all petitions for adjustment of lands not within their jurisdiction, viz: Lands having an area of more than 30 hectares, such as are, or are not entirely bounded by private lands; also all proceedings to be heard and determined by said department."

Judging from the area of the land in question and that of the two-third portions from which it had been segregated, upon the supposition that the three-third portions abovementioned constitute the whole tract of land which had originally passed from Tomas Ilao, it is obvious that the same belonged to the first group, as defined in the aforesaid Royal Decree, on the ground that the area thereof greatly exceeded thirty hectares and was not entirely bounded by private lands. Notwithstanding such facts, the title Exhibit D-2 was not issued by the General Directorate of Civil Administration with the intervention of the Inspector General of Forests, but merely by the provincial board, in open violation of the laws and regulations relative thereto.

During the period and on the date of the issuance of the title Exhibit D-2 in question, the Maura Law was also in force in the Philippine Islands by virtue of the Royal Decree of February 13, 1894. Article 6 of said law, which prescribed the procedure for the hearing and disposal of applications for adjustment, reads as follows:

"ART. 6. All petitions for adjustment, for which a second petition insisting thereon has been made within the prescribed time limit, shall be disposed of in the shortest time practicable according to the laws in force prior to the present Decree, excepting as to the provisions of article 8, by the General Directorate of Civil Administration, assisted by the Inspector General of Forests, whenever such property adjoins lands belonging to the State or contains more than 30 hectares; in all other cases they shall be disposed of by the provincial boards established by Decree on Municipal Organization issued May 19, 1893.

"The provincial boards for the adjustment of lands established by Royal Decree of December 26, 1884, and confirmed by Royal Decree of August 31, 1888, are hereby dissolved, as are also local commissions created by the latter decree. Municipal tribunals of towns shall assume the duties of said local commissions. Before dissolving, boards of adjustment are hereby directed to deliver to their successors, the provincial boards, all records and documents which they may hold in their possession." Articles 9, 12, 13 and 40 of the Regulation for the enforcement of the aforesaid Decree, provide as follows:

"ART. 9. Lands subject to adjustment shall continue to be classified as heretofore into two groups: The first shall comprise those which have an area of more than 30 hectares, or, if less, when bounded at any point by other state lands, and the second shall comprise all others.

"Proceedings for adjustment of lands of the first group shall be heard and determined by the General Directorate of Civil Administration with the assistance of the Inspector General of Forests.

"The adjustments of the second group shall be heard and determined by the provincial boards established by Royal Decree of 19th of May, 1893, which shall take the place of the boards of adjustment existing up to the present time.

"ART. 12. When petitions referring to lands included in the second group mentioned in article 9 are received by the General Directorate of Civil Administration they shall be referred to the presidents of the provincial boards for examination and report, including records. The secretaries of said boards shall keep registers in which a record shall be entered of the receipt of all petitions for adjustment.

"ART. 13. Provincial boards shall immediately remit to the General Directorate of Civil Administration all

petitions for adjustment of lands not within their jurisdiction, viz: Lands having an area of more than 30 hectares, such as are, or are not entirely bounded by private lands; also all proceedings to be heard and determined by said department.

"ART. 40. All title deeds shall bear the father's name in full and the mother's maiden name of the persons to whom they are issued, also their age, civil status, profession, and residence, in compliance with the provisions of Royal Order of February 15, 1893, and article 2 of the Regulations for the manner of drafting public documents subject to registration in the archipelago. Title deeds deficient in any of the requisite provisions of law shall not be admitted to registration. Said personal data covering the grantee must compare with his personal cedula or certificate from the captain or gobernadorcillo of his district, pursuant to circular dated August 9, 1893, issued by the General Directorate of Civil Administration and published on the 11th in the Gazette of said month. Such credential shall be attached to the record, and the fact of its being so attached shall be entered in the instrument of title."

The circular of the General Directorate of Civil Administration on February 14, 1894, was likewise then in force. Said circular declared null and void all titles issued after October 18, 1893, which did not comply with the requirement that they bear the dry seal and rubric of the Inspector General of Forests. The circular in question reads as follows:

"GENERAL DIRECTORATE OF CIVIL ADMINISTRATION OF THE PHILIPPINE ISLANDS

"CIRCULAR

"Inasmuch as article 28 of the Instructions for the adjustment of public lands of the Philippine Islands expressly provides that titles issued by the chiefs of provinces by virtue of such adjustments be drawn up on the printed forms which this office shall furnish to the provincial boards for that purpose, in order to fully comply with the provisions of said article and to facilitate the discovery of any violation thereof, this office has deemed it convenient to order that all printed forms of this kind furnished to the said boards for the aforesaid purpose bear a dry seal in the form of mountains with the inscription 'Office of the Inspector General of Forests of the Philippine Islands-Adjustment of Lands' and the rubric of the said Inspector General of Forests. All titles issued by my deputies after October 18, 1893, which do not comply with these requirements are void. Furthermore each and every one of said papers shall be serially numbered."

Exhibit D-2 does not bear the serial number either printed or in handwriting as required by the aforecited circular. Neither is it amiss to repeat herein that the so-called title (Exhibit D-2) does not bear the required dry seal and rubric of the office of the Inspector General of Forests.

Similarly, the regulation to the effect that the maiden name of the grantee's mother should appear in the title issued to him was then in force and strictly observed. The regulation in question which is dated May 10, 1898, and countersigned by the Inspector General Off Forests, is embodied in the circular of the Director General of Civil Administration of the Philippine Islands which was published in the "Gaceta de Manila" on May 14th of the same year. Said circular reads as follows:

"GENERAL DIRECTORATE OF CIVIL ADMINISTRATION OF THE PHILIPPINE ISLANDS

"CIRCULAR

"Considering that the printed forms which were being used by the boards of adjustment in the issuance of titles to lands adjusted with the State, do not conform strictly to the provisions of the Mortgage Law now in force, and in compliance with the Royal Order relative thereto which was issued on February 15th last, this Directorate, at the instance of the Inspector General of Forests, has resolved the following:

"1. The boards of adjustment of lands shall discontinue issuing title from the date this resolution is published in the 'Gaceta de Manila'.

"2. The determination of adjustment cases pending hearing before said boards shall be suspended unless the interested parties furnish their father's surname and their mother's maiden name, their age, civil status, profession and domicile, all of which data must necessarily be stated in the titles to lands which may henceforth be issued.

"3. Presidents of boards shall publish the requirements of the preceding paragraph by means of notices and town criers in order to enable the interested parties to supply any omission in the above requisite data.

"4. In order that the adjustment work may not be interrupted for any length of time, the presidents of boards shall remit all printed forms used in the issuance of titles, which they may have in stock at the first opportunity, so that they may be exchanged for others drawn up in accordance with the provisions of the Mortgage Law in force in the Philippine Islands, as expressly provided in the aforecited Royal Order of February 15th, last."

The circular of the General Directorate of Civil Administration of the Philippines, dated August 9, 1893, and published in the "Gaceta de Manila" on the 11th of the same month and year, demanded the same requisite. Said circular reads as follows

"GENERAL DIRECTORATE OF CIVIL ADMINISTRATION OF THE PHILIPPINE ISLANDS—FORESTS

"CIRCULAR

"It being necessary, in conformity with the provisions of the Royal Orders of January 12th and February 15th last, to state in the adjustment titles to public lands the personal circumstances of the grantees, as stated in their cedula certificates, and deeming" it improper to require the interested parties to send said cedula certificates either to the Inspector General of Forests or to the presidents of provincial boards for adjustment of lands, for their guidance in drawing up said titles, both for the reason that the interested parties to whom they may be indispensable would be deprived thereof for a long time and because of the likelihood that they may be lost, this office, with the concurrence of the Inspector General of Forests, has resolved that in all cases in which it is not possible to examine the cedula certificate of the interested party in drawing up the titles to adjusted lands, the Inspector General of Forests as well as the presidents of provincial boards for the adjustment of lands may demand a certificate in connection with such document through the chief of the province.

"This certificate shall be drawn up de oficio at the municipal court of the town where the interested party resides, the issuing officer having before him the cedula certificate in force, which the interested party shall be required to exhibit to that effect.

"The certificate shall contain a complete copy of the contents of the cedula certificate and shall further indicate the maiden name of the grantee's mother, his age, civil status and profession, if such data have not been stated therein.

"Said certificate shall be signed by the 'gobernadorcillo' or captain, his assistants and the interested party, or by another person of the same locality at his request if he does not know how to do so.

"Your Honor will please have this circular published by means of town criers, in Spanish and in the local dialects, in all the municipalities of the province under you, for the information of the general public."

The contents of the document Exhibit D-2 show that it did not comply with the requirements above stated.

Everything said thus far shows that the title in question was not valid. It follows, therefore, that it vested no title in Tomas Ilao.

If this should not be sufficient, it may be added that, in view of the provisions of article 3 of the aforesaid Decree of the Overseas Minister (Ministro de Ultramar), dated October 20, 1888, which reads: "Uncultivated lands shall not be admitted for adjustment unless such adjustment had been applied for prior to September 8, 1881, the date on which the period for the filing of applications for lands of this kind expired, in accordance with the Royal Order of July 13, 1881," the presumption is that the said interested party obtained the aforesaid title Exhibit D-2 on the strength of his affirmation that the land covered thereby was under cultivation, otherwise such title would not have been issued to him. Under such circumstances, it is clear that he obtained the title in question not only through error but also through fraud, inasmuch as the evidence of record shows that, with the exception of a portion thereof, the land covered thereby was never cultivated during the five years prior to September 28, 1931, when the case was heard in the trial court, judging from clearings (caingin), which were in evidence in some portions thereof, and from the two-year old coffee trees planted on the portion which is indicated with the word "coffee" on the plan Exhibit A. This is shown more clearly by the fact that on the entire land and on the portion planted with young coffee trees, there are many timber-trees, some of which are more than 40 years old according to the evidence of the oppositors.

Exhibit 4, which is an authentic and genuine title to property issued to Pablo Acero y Alcantara by the chief of the Province of Laguna, seven months after the alleged issuance of Exhibit D-2, and which refers to a parcel of land having an area of 6 hectares, 54 ares and 82 centares, serves not only to show how strictly the provisions of the aforesaid decrees, laws, and regulations were then observed and complied with, in connection with the manner in which titles were issued and the persons issuing them when the land covered thereby did not exceed 30 hectares in area, and, when they exceeded 30 hectares, the dry seal and rubric which such titles should bear and the statements or certificates which they should contain relative to the full name and surname together with the maiden name of the mother of the person or persons in whose favor they were issued, but also proves that Exhibit D-2 in question is fictitious and not genuine. Said Exhibit 4 was issued by the chief of the Province of Laguna because the land covered thereby had an area of less than thirty hectares. It bears the dry seal and rubric of the Inspector General of Forests as prescribed in the aforesaid circular of the General Directorate of Civil Administration on February 14, 1894; indicates the maiden name, of the mother of the grantee Pablo Acero y Alcantara, and has the serial number relative to the issuance thereof printed at the top of the left margin.

Comparing the statements and certificates contained in the two documents above-mentioned, Exhibit D-2 and Exhibit 4, in connection with the cedula certificates of their respective grantees, it is inconceivable how it was possible to issue Tomas Ilao a cedula certificate dated January 23, 1896, with a number (No. 1,940,344 10th class) which is very much higher than that of the one issued to Pablo Acero y Alcantara (No. 43,723 10th class) on a much later date, that is, on February 28, 1896. It should further be noted that the two cedula certificates in question had been issued in the same municipality of Siniloan, Laguna. Furthermore, the very contents of Exhibit D-2 indicate that it is fraudulent. The certificate referred to in its first paragraph states that the cedula certificate of Tomas Ilao was issued on the "23d instant", that is, on January 23, 1896, while said exhibit was issued on, the 2d of the same month and year, according to the date appearing therein.

In case the foregoing are deemed insufficient, it should be added that the evidence of the oppositors shows that no trace of the issuance of the so-called title Exhibit D-2 of Tomas Ilao, or of the proceeding thereof, could be found in the National Library or Division of Archives where the records of all titles to property issued during the Spanish regime, are kept.

It is therefore evident that the trial court committed the first error alleged in the appellant's brief. Exhibit D-2 should have been rejected not only because it is null and void but also because it is fictitious or forged and therefore not genuine.

Inasmuch as this court is convinced that Exhibit D-2 did not vest Tomas Ilao with any right, he could not therefore validly sell the land which he allegedly sold to Pablo Villegas on October 15, 1897, according to Exhibit D-1. With much less reason could the latter sell it to Teodoro Kalambakal on the ground that he did not even take possession nor claim ownership thereof in spite of the alleged execution of the aforesaid document in his favor. Exhibit 48, which is the record of the proceeding in the homestead application of said Pablo Villegas, and particularly his application therein, prove that in 1918, long before he sold the land of which the parcel in question was a portion, as claimed by the herein appellees, and long after he purchased it from Tomas Ilao, as also claimed, said Pablo Villegas did not have any land, having so declared under oath in his application above-mentioned. Furthermore, he never declared it as his property for taxation purposes¹ at any place, much less in the municipalities of Siniloan and Famy where said land is situated. All these circumstances show beyond doubt that he not only did not possess or occupy the land in question but was not even aware of the existence of the deed of sale Exhibit D-1 which was allegedly executed by Tomas Ilao in his favor.

The foregoing likewise shows that Teodoro Kalambakal's alleged purchase of the land from Pablo Villegas is fictitious on the ground that, if the latter had no land of his own he could not have sold what is now claimed to have been bought by the former. The preponderance of evidence, more than anything else, leads us to the conviction that Teodoro Kalambakal was aware of the manner in which the so-called title Exhibit D-2 was fabricated. Of this there is no doubt because when he went to the land in question on or about the month of July, 1929, for the purpose of indicating the boundaries thereof to Forester Valentin Sajor, who was sent by the Bureau of Forestry to inspect it in connection with the former's application to the said bureau for the registration thereof, he made the mistake of narrating how he became the owner of the land by means of some old documents scattered in the house of a friend in Siniloan, who told him that he could have them because they might be of some use to him.

If Teodoro Kalambakal neither acquired anything from Pablo Villegas nor actually possessed the land which he claimed to have bought from the latter, the transfer thereof which he made in favor of the appellees-spouses would serve them nothing on the ground that it did not vest them with any right whatsoever. Said spouses, no doubt, were led to believe that Exhibit D-2 was valid. It should be borne in mind that, as before stated, the only acts of Teodoro Kalambakal which may in some way serve as evidence of his claims of ownership of the land in question were his having declared it as his property for taxation purposes in Laguna on November 8, 1928, and his occasional visits to the land about the same year. It cannot even be said that the clearings (cainyin), of which there were some traces thereon and which might have been made about five years prior to September 28, 1931, according to the evidence, had been made by Kalambakal's order, because there is nothing of record to justify such conclusion. Neither is it necessary to dwell upon the young coffee trees on the ground that their age (two years) clearly proves that they had been planted during the time applicants-appellees were in possession thereof.

Granting that the applicants-appellees have been in possession of the land in question from the date on which they purchased it in 1929 and had planted it with young coffee trees, it may be inferred from the foregoing that their possession only commenced from that year in view of the fact that Teodoro Kalambakal from whom they bought it did not possess it in the legal sense. The mere fact of declaring uncultivated land for taxation purposes and visiting it every once in a while, as was done by him, does not constitute acts of possession. (*Evangelista vs. Tabayuyong*, 7 Phil., 607; *Casimiro vs. Fernandez*, 9 Phil., 562.)

Therefore, there can be no doubt but that the trial court committed the second error as alleged in the appellant's brief.

With respect to the fourth alleged error which the appellants contend was committed by the trial court, this court, after examining and studying the provisions of section 45, paragraph (b) of Act No. 2874 which amended section

54, paragraph 6 of Act No. 926, is compelled to hold that the contention of said appellants is likewise correct.

The judgment of the trial court adjudicating the land in question to the appellees under the aforecited legal provisions, is based on a false premise, to wit: that the land in question is agricultural in nature. The evidence presented as well as that heretofore stated shows that it is forestry land. This kind of land is not subject to registration on the ground that it has been occupied for the period of time therein prescribed (*Ankron vs. Government of the Philippine Islands*, 40 Phil., 10), particularly when, as already stated, neither the applicants-appellees nor Teodoro Kalambakal nor Pablo Villegas nor Tomas Ilao, in this case, possessed the land in question jointly or separately, in succession, under the conditions prescribed by the law, that is, openly, continuously, exclusively and under a bona fide claim of ownership, from the year 1888, notwithstanding the attempt of the applicants-appellees to prove the contrary. The only thing that, in a way, seems certain is that the applicants-appellees cultivated the land in question for the first time in 1929 or 1930, by means of laborers who planted young coffee trees thereon. However, that took place after the deed of sale Exhibit B had been executed by Teodoro Kalambakal in their favor and this fact does not entitle them to register it in their name, either under Act No. 496 or under Act No. 926.

Having arrived at this conclusion, the court deems it unnecessary to pass upon the third, fifth and sixth alleged errors relied upon in the appellants' brief.

Wherefore, finding that the judgment appealed from is not in accordance with the law nor supported by the evidence presented during the trial, it is hereby reversed. The petition of the applicants-appellees is hereby denied and the land in question is declared forestry land, without special pronouncement, however, as to costs. So ordered.

Abad Santos, Hull, Imperial, and Butte, JJ., concur.

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