

ALEJANDRA REPOLLO ET AL., APPLICANTS AND APPELLEES, VS. BERNABE BALECHA, OPPOSITOR AND APPELLANT.*G.R. No. 37345. December 23, 1933*

Ponente: AVANCEÑA, C.J.

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These seven cases were instituted for the registration of the parcels of land described therein. Bernabe Balecha filed his opposition thereto in each and every one of them. The judgment appealed from, which denied Balecha's opposition, was in favor of the applications filed in all of the seven cases in question.

Prior to the institution of these seven cases, Bernabe Balecha had already applied for the registration of the same parcels of land in his name. The herein applicants then filed oppositions thereto. In the former case the trial court denied the application and sustained the opposition, under the following findings of fact, to wit:

"After a careful examination of the evidence, both oral and documentary, adduced by the parties, the court is of the opinion, and so finds that the land subject of the registration application of the said Bernabe Balecha is not now, nor has it ever been at any time before, possessed or owned by the said applicant nor by his alleged predecessor in interest, Mariano Balecha, the same being actually occupied by the opponents surnamed Paguyo and Repollo and the successors in interest of some of the latter as the exclusive owners thereof, whose possession together with that of their predecessors in interest has always been open, public, adverse, continuous, uninterrupted and as owners for a period which dates back during the Spanish regime, not less than forty years to say the least."

No appeal was taken from the aforesaid judgment.

It was agreed that the evidence presented in the former case, wherein Bernabe Balecha was the applicant and the herein applicants, the oppositors, be considered also as evidence in these seven cases which are now the subject matter of Bernabe Balecha's appeal, as oppositor herein. Neither party has presented any other additional evidence.

The question is now raised whether the judgment rendered in the former case, wherein Balecha was the applicant and the herein applicants, the oppositors, constitutes *res judicata* in these seven cases wherein the therein oppositors are now the applicants and Balecha, the oppositor. Of course, it does not, on the ground that the question involved herein is different from the question involved in the other case: That in the case instituted by Balecha, the question was whether or not he had the right to register the property in his name. It was not a question of whether or not the land should be registered in the name of the oppositors because the law in force at the time of the institution of the former case did not allow any finding to the latter effect. The question involved in these seven cases is whether the land in question should be registered in the name of the applicants, who were the same oppositors in the former.

Neither would it constitute *res judicata*, even if we were to consider Balecha now as an applicant for the second time under Act No. 3621, which allows the court to order registration in the name of the oppositor, on the ground

that judgments rendered prior to the enactment of the said law did not constitute *res judicata*, in accordance with repeated decisions of this court.

The fact that, although Act No. 3621 was not in force when Balecha instituted the former case, it went into effect at the time judgment was rendered therein, and does not affect the question at all inasmuch as the then oppositors did not invoke the benefits afforded by the said law and the court merely sustained their opposition without ordering the registration of the land in question in their name.

However, we are of the opinion that the evidence supports the judgment appealed from in these seven cases. In arriving at this conclusion, we have taken into consideration what has been said in the case of *Cruz and Cruz vs. Cruz* (47 Phil., 10), to wit:

"LAND REGISTRATION; EVIDENCE; FINDINGS OF FACT IN FORMER DECISIONS.—Though former decisions in land registration cases denying the registration of the land may not constitute *res adjudicata* in the strict sense of the term, the findings of fact contained in such decisions are, nevertheless, generally entitled to some credit and may be taken into consideration in subsequent litigation over the same land between the same parties or their successors in interest."

This doctrine has greater force in appeals of this nature wherein the only evidence is no more than what has been presented in the case formerly instituted by the appellant.

Wherefore, the judgment appealed from in each and every one of these seven cases is hereby affirmed, with the costs against the appellant. So ordered.

Street, Vickers, Butte, and Diaz, JJ., concur.

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