JOSE L. DE LEON AND NATIVIDAD JOVEN, APPLICANTS AND APPELLEES, VS. THE DIRECTOR OF LANDS ET AL., OPPOSITORS AND APPELLANTS.

G. R. No. 37454. June 23, 1934

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Tarlac in a land registration case, G. L. R. O. Record No. 36590, Expediente No. 1026, in which the appellants are the Director of Lands and seven homesteaders.

The land involved covers 61 hectares, 33 ares and 99 centiares situated in the barrio of Balibago, in the municipality of Tarlac in said province. In his application the petitioner, by his counsel, swore that he is in possession of the said land; that he and his predecessors for more than fifty years have kept the land constantly in cultivation for palay and sugar cane and enclosed with a fence. The Director of Lands filed a general opposition claiming the said lands to be public domain.

On November 18, 1930, the attorney for the applicant and the Director of Lands and the attorney for the seven homesteaders occupying portions of said lands filed a stipulation in court that Marcelo M. Sibal should be appointed as referee and the court on the same date made said appointtnent. After various hearings in which the attorney for the oppositors, the homestead applicants1, the Director of Lands and the spouses De Leon were duly represented, the said referee filed his report under date of June 9, 1931. On that same day the attorney for the spouses De Leon filed a petition in which they asked for an injunction ordering the homesteaders to abstain from performing any action said land or against the person of any agent of the applicant or his tenants. On June 10, 1931, his Honor, A. M. Recto, the judge of the court, without notice to the homesteaders or giving them any hearing, granted the injunction as prayed for by De Leon. It was well known to counsel for De Leon that these homesteaders, as was proven in the hearings before the referee, had been in possession for several years under authority of the Director of Lands. The granting of this injunction driving these homesteaders from their small possessions without notice and without hearing was, in our opinion, unjust and a grave abuse of judicial discretion. (See Golding vs. Balatbat, 36 Phil., 941, and Act No. 1680, section 3.)

Two days after issuing this injunction, that is on June 12, 1931, the learned judge, for reasons which are not disclosed but which presumably existed before the injunction was granted, disqualified himself from taking cognizance of this case. On June 24, 1931, the homesteaders presented a verified petition in which they stated their case and explained that their occupancy of said lands was as homesteaders and not as intruders and prayed the court to lift said injunction. On June 29, 1931, the same judge denied the petition.

We take judicial notice of Administrative Order No. 132 of the Secretary of Justice dated July 22, 1931, appointing Mariano Rosauro, Auxiliary Judge of First Instance, to hear "land registration cases Nos. 1026 and 1053 and to enter final judgment therein."

Under date of October 2, 1931, Judge Rosauro rendered his decision adjudicating all of said lands to the applicant* and overruling the opposition of the Director of Lands and the homesteaders. On October 10, 1931, the Honorable A. M. Recto denied a second petition of the homesteaders that the injunction should be lifted and they permitted to continue with the cultivation of their lands. After disqualifying himself on June 12, 1931, his further intervention in this case was manifestly indelicate and lacking of jurisdiction in view of the said Administrative Order No. 132.

On January 27, 1932, the motion for new trial of the Director of Lands and the homesteaders was overruled and the case comes to this court for decision on the merits.

The applicants claim to be the owners of 61 hectares, 33 ares and 99 centiares of land shown as lots Nos. 5 and 6 on plan Psu-66930 attached to their application, under and by virtue of a Spanish title (Titulo de Composition) dated November 17, 1890, registered in the office of the register of deeds of the Province of Tarlac and introduced in evidence here as Exhibit E. The area stated in Exhibit E is 13 hectares, 96 ares and 50 centiares. On June 6, 1911, the owners (heirs of Vicente Tanedo) sold the land with pacto de retro to De Leon for P800 but the area had swelled by that time to 57 hectares, 49 ares and 15 centiares. On December 31, 1929, an absolute sale to De Leon by the same vendors further extended the area of the original Spanish title to the present dimensions claimed by the applicant, that is to say, 61 hectares, 33 ares and 99 centiares.

This arbitrary increase of the area granted by the Spanish Government cannot be sanctioned. The description of the land as given in Exhibit E is as follows:

"1.* PARCELA.—Radica en el sitio de Gamu-gamu, mide una superficie de trece hectareas, noventa y seis areas y cincuenta centiareas. Limita al norte, con Don Emigdio Landingin; al este, con Don Victoriano Tanedo; al sur, con Eulalio Tanedo y al oeste, con la Hacienda de los Tanedos y se halla cultivada de palay." It is to be noted that this description gives no natural or fixed boundaries and in view of the lack of convincing proof as to the location of the adjacent estates, there is no warrant for converting a grant of 13 hectares, 96 ares and 50 centiares into a grant of more than 61 hectares. Moreover, the said composition title Exhibit E, could not possibly lawfully include the 61 hectares of land claimed by the solicitants because the Junta Provincial de Tarlac which issued said title had no authority to grant a composition title with an area in excess of thirty hectares. It is plain that what the solicitants and their predecessors had attempted and are attempting to do is to intrench upon the public domain toward the south by including 47 hectares, 37 ares and 49 centiares of public lands which are now in the material possession of the homesteaders-appellants1.

The claim of continuous, peaceful, adverse possession of the solicitants and their predecessors In title since July 26, 1894, is not established as to any lands in excess of the 13 hectares, 96 ares and 50 centiares covered by the Spanish composition title, Exhibit E.

In view of the premises, the judgment appealed from must be reversed and the lands included within lots Nos. 5 and 6 of plan Psu-66930, Exhibit A, 47 hectares, 37 ares and 49 centiares, more or less, covered by homestead applications of the homesteaders-appellants are hereby declared to be the lands of the State or public lands and the remainder, having an area of 13 hectares, 96 ares and 50 centiares, more or less, contained in one tract within lot No. 6 of said plan Psu-66930 aforesaid, is adjudicated to the spouses Jose and Natividad de Leon.

The injunction which was improvidently issued against the appellants-homesteaders is hereby vacated and set aside and this cause is remanded for further proceedings not inconsistent with this opinion, with costs in this instance against the appellees.

Villa-Real, Abad Santos, Hull, and Diaz, JJ., concur.

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