

ANTONIO ALVAREZ, FOR HIMSELF AND IN REPRESENTATION OF HIS WIFE, ATANASIA CARLOS, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT, RESPONDENT AND APPELLANT.*G.R. No. 3784. January 16, 1908*

Ponente: JOHNSON, J.

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On the 30th day of March, 1904, the petitioner filed a petition in the Court of Land Registration for the purpose of registering under the Torrens system a certain piece or parcel of land situated in Buntuc-Babi, of the barrio of Santa Monica, pueblo of Concepcion, Province of Tarlac, which tract or parcel of land is more particularly described in the first paragraph of the said complaint. The petitioner alleged that the said tract of land contained a superficial area of 284,921.42 square meters. The plaintiff also alleged that he had acquired the land by gift from Raymundo Rodriguez and that said gift was made upon the 18th day of..... to the said Atanasia Carlos, his wife, and that he had registered his title in the registry of property of the Province of Tarlac during the existence of the sovereignty of Spain in the Philippine Islands, which registry had been destroyed by the insurrectos. The petitioner also alleged that said property had been taxed by the present Government and had been valued at \$2,500, United States currency.

To this petition of the petitioner the Attorney-General of the Philippine Islands appeared and opposed the registration of the said property, upon the ground that said land was the property of the Government of the United States and under the control of the Insular Government of the Philippine Islands.

After hearing the evidence adduced during the trial of the cause in the lower court, the judge of said court rendered a judgment in favor of the petitioner and against the respondent, in which judgment he made the following finding of facts:

"The petitioner, Atanasia Carlos, is in possession of the land described in the petition, having acquired the same as a gift from her uncle, Raymundo Rodriguez, in the year 1872, more than thirty years ago, and she devoted a part of it to the cultivation of paddy and corn, and a part to buildings belonging to the different tenants who rent the same, as shown on the plan exhibited and by the testimony of witnesses.

"On account of the opposition filed by the Insular Government, based on the lack of concession granted by the Spanish Government, the determination of the case, tried on the 22d of March, 1905, was suspended by agreement made with the Insular Government's representative, until a decision is rendered by the Supreme Court in the case No. 319) (Inchausti & Co. vs. Commanding General, 6 Phil. Rep., 556), decided by the undersigned to the effect that Government agricultural lands may be acquired by prescription.

"The above-cited case was decided by the court, but without mentioning the question of prescription, on the ground that the land referred to is not agricultural but is for building purposes. It is affirmed in the decision, however, that, should the land in question be really public, within the meaning of the judgment appealed, it would be worth while considering again the doctrine laid down by the court in a case in which the majority established the impossibility of prescription with respect to Government lands.

"Bearing in mind the proviso made by the Supreme Court in the decision above referred to, and in view of the result of the evidence, it would be proper to quote the decision rendered in the said case, inasmuch as it deals with a land which is partially agricultural. Yet, this action will give rise to an appeal which will entail many expenses for the appellant, who should be subjected only to those that are necessary, and is entitled to obtain a prompt determination of his case; therefore, taking into consideration the fact that a possession of not only ten but of more than thirty years was proven, and that during this last period of time prescription runs against the State as well as against private individuals, the writer of this judgment applies to this case the provisions of section 54, No. 6, of the Public Land Act, for although not expressly invoked by the petitioner, according to a decision rendered by the Supreme Court, of December 3, 1906, in case No. 975 of this court (Order of Dominicans vs. Insular Government, 7 Phil. Rep., 98), by the mere fact of their being in force the laws must be made applicable to cases coming under their provisions. The Director of the Bureau of Lands was not served with summons to appear in this case, inasmuch as the petitioner did not claim for his benefit the provisions of Act No. 926, but in behalf of the Government, the official appeared who would have represented the former official had he been served with summons before the date of the trial. As possession for ten years previous to the enactment of said act was sufficiently proven, and a general declaration of default against all other objectors being recorded beforehand, it is hereby decreed and adjudged that said land be registered in the name of Atanasia Carlos.

"Manila, December 10, 1906.

"S. DEL ROSARIO, Judge,"

From this decision of the court below the respondent appealed and assigned the following errors:

"1. The Court of Land Registration erred in finding that the petitioner acquired by prescription the land which she is seeking to register.

"2. The Court of Land Registration likewise erred in applying to this case the provisions of Act No. 926, notwithstanding the fact that same was not expressly invoked by the petitioner."

Both of these contentions of the Attorney-General have been decided against him. In the case of the Order of Dominicans vs. The Insular Government (7 Phil. Rep., 98), in considering the question presented in the second assignment of error above noted, this court said (p. 102), with reference to the application of paragraph 6 of section 54 of Act No. 926 of the Philippine Commission:

"The fact that relief was not specifically sought under this act is not important. The petitioner asked generally that its ownership of the land be registered. That petition should be granted if the evidence shows that it was entitled to such relief under any law in force in the Islands."

In the case of Pamintnan et al. vs. The Insular Government[1] (5 Off. Gaz., 698), this court again said upon this same question (p. 699) :

"Notwithstanding the fact that the Public Land Act (No. 926) has not been expressly invoked, and that although the act was passed on the 7th of October, 1903, it only went into effect on the 26th of July, 1904—that is, months after the application for registration had been presented, to wit, the 12th of December, 1903—yet, in deciding a case, the courts must see to it that their determinations conform to the law in force and applicable, and with a greater reason if by means of such later law a right has for the first time been declared which, though it may originate in a matter subject to former laws, yet is not prejudicial to a third party."

In the present case the petitioner presented evidence during the trial of the cause which showed that he had been in the actual, uninterrupted, and peaceable possession of such lands for a period of nearly thirty years; that no one had questioned the title in any way whatever; that the Government had taxed such lands, and that he had paid such taxes.

Paragraph 6 of section 54 of said Act No. 926 provides, in effect, that all persons, or their legal successors in right, occupying public lands in the Philippine Islands, or claiming to own any such lands, or an interest therein, but whose titles to such lands have not been perfected and who by themselves or their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by the act of Congress of July 1, 1902, under a bona fide claim of ownership, except as against the Government, for a period of ten years next preceding the taking effect of this act, may apply to the Court of Land Registration of the Philippine Islands for a confirmation of their claims and the issuance of a certificate of title therefor, and shall be conclusively presumed to have performed all the conditions essential to a Government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of said chapter.

Considering the terms of this law, and the fact that the petitioner had been in possession of the lands in question for a period of thirty years or more, by himself and his predecessors, and had planted thereon various crops continuously, we are of the opinion, and so hold, that he is entitled to the benefits of said paragraph 6 of section 54 of Act No. 920, and that he is conclusively presumed to have performed all the conditions essential to a Government grant, and to have received the same, and is therefore entitled to a certificate of title to such land under the provisions of that article. (*Pamintuan et al. vs. The Insular Government*, 5 Off. Gaz., (J98.)

The judgment of the lower court is therefore hereby affirmed and, without any finding as to costs, it is so ordered.

Arellano, C, J., Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

[1] 8 Phil. Rep., 485.

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