

CRISANTO LICHAUCO ET AL., APPLICANTS AND APPELLANTS, VS. HEREDEROS DE CAYETANO CORPUS ET AL., MOVANTS AND APPELLEES.

G. R. No. 39512. June 29, 1934

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Pangasinan in a land registration case, G. L. R. O. Record No. 1, declaring null and canceling the decrees of said court of November 24 and December 20, 1922, and March 1, 1923, and ordering the cancellation of the certificates of title issued to the appellants, in pursuance of said decrees, to a certain tract of land situated in said province and known as hacienda "El Porvenir."

The essential facts of the case are as follows: On May 1, 1905, the court of land registration adjudicated in favor of the appellants a certain tract of land whose area and metes and bounds were set out in a survey prepared by Surveyor Rocafull in the year 1886 which was made the basis of the petition and the decree. On October 31, 1922, the appellants submitted a new survey Psu-17590 and asked that the description of the land previously adjudicated to them as aforesaid should be amended and new certificates of title issued in their favor, in conformity with the said new survey after cancellation of the certificates formerly issued. No new publication of notices of said petition or the said new survey Psu-17590 or of the technical descriptions of the land was made nor were the appellees who claimed to be the owners of portions of the land included for the first time in the new survey given any notice of said petition. On the 24th of November, 1922, the court entered an order granting the said petition of October 31, 1922. On December 6, 1922, the chief surveyor submitted a report to the court calling attention to the fact that some of the lands included in said amended plan Psu-17590 had been previously decreed and the titles registered in favor of other persons, recommending that such be excluded from the said amended survey Psu-17590. On December 20, 1922, the court dictated an order conforming to the recommendation of the chief surveyor. On February 21, 1923, the chief surveyor reported to the court that the survey Psu-17590 had been duly amended in accordance with the order of the court of December 20, 1922, and on March 1, 1923, the court entered another decree approving the survey Psu17590, as amended, and ordering the register of deeds to issue new certificates of title to the appellants in accordance with said amended plan.

It is evident at once that the said new survey Psu-17590 which describes the land? now decreed to the appellants is very different from the survey prepared by Rocafull, which was the basis of the certificates of title originally issued to the appellants in 1905 as aforesaid. The learned trial judge calls attention to five material particulars in which the said two surveys vary. Without reviewing all of these, there is one essential variance which in our opinion is fatal to the theory of the appellants that the surveys are so nearly identical that the amended survey should be regarded as a mere correction of errors in the Rocafull survey. We refer to the discrepancy in the area of the land as given in the two surveys. In the Rocafull survey the area is given at 2,705 hectares, 68 ares and 49 centiares whereas in survey Psu-17590, supra, the area is given as 2,997 hectares, 48 ares and 56 centiares, in other words, an increase in area of 291 hectares, 80 ares and 70 centiares resulting in favor of the appellants. The

appellees, about seventy in number, claim to be the owners of various portions of land included in the amended survey and assert that the extension of the area of the hacienda "El Porvenir" by more than 291 hectares cannot be regarded or justified as a mere correction of alleged errors in the Rocafull survey; and that section 112 of the Land Registration Act No. 496 does not authorize the revision of an original land registration decree in the manner attempted by the orders of the court objected to.

We think the trial court correctly held that the decrees of November 24, and December 20, 1922, and March 1, 1923, aforesaid, are null and that section 112 of Act No. 496 aforesaid did not confer jurisdiction on the court to make said decrees. The decisions of this court in *Philippine Manufacturing Company vs. Imperial* (49 Phil., 122) and *Juan and Chuongco vs. Ortiz Luis* (49 Phil., 252), are conclusive against the appellants. It is plain that the appellants in the proceedings had in 1922 and 1923 were not seeking the correction of a mere "error, omission or mistake" that was made in entering the certificates that had been awarded to them in 1905—a proceeding which might be permitted under section 112 aforesaid—but on the contrary, in substance and effect, asked and obtained a reopening and a revision of the original decree of registration of 1905, which is expressly prohibited by section 112. Plainly, the decrees of 1922 and 1923 attempted to adjudicate the title to some 291 hectares of land, more or less, not included in the original petition or covered by Rocafull's survey upon which the decree of 1905 was based. Such a proceeding without a new publication and a new notice is void. (*Juan and Chuongco vs. Ortiz Luis*, supra.)

The statement of the appellants that the discrepancy in area of 291 hectares in the two surveys "is a difference more apparent than real" and that said difference is easily explained is not supported by convincing arguments. The correctness of Rocafull's survey was asserted by the petitioners themselves in their application for the registration of the title in 1905. We can hardly be expected to take judicial notice of the alleged fact that the Spanish surveyors (including Rocafull) used instruments which did not give exact results. The cold fact remains that when the appellants obtained their amended title in 1923 they included lands then occupied by the appellees without giving the appellees any notice actual or constructive.

The judgment is affirmed with costs against the appellants.

Abad Santos, Hull, Goddard, and Diaz, JJ., concur.

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