

JOSE P. HENSON, PLAINTIFF AND APPELLANT, VS. THE DIRECTOR OF LANDS, CANDELARIA MERCADO, ADMINATRIX OF THE ESTATE OF LORENZO MERCADO, AND EMIGDIO BANTIG, DEFENDANTS AND APPELLEES.

G. R. No. 39516. May 06, 1934

Ponente: GODDARD, J.

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GODDARD, J.:

This is an appeal from a decision of the Court of First Instance of Tarlac, the dispositive part of which reads:

"Se sobresee la demanda sin especial pronunciamiento en cuanto a las costas."

The property in question in this case is now before this court for the third time. The land claimed by the plaintiff-appellant has an area of 32 hectares, 50 ares and 75 centiares and is made up of lots Nos. 528, 819, 820 and 822-A of case No. 9, G. L. R. O. Cadastral Record No. 187 of the Province of Tarlac.

On March 12, 1914, Jose P. Henson, the appellant herein, filed a petition in the Court of First Instance of Tarlac (Expediente No. 33, G. L. R. O. No. 10010) for the registration under Act No. 496 of two parcels of land having an area of 175 hectares, 37 ares and 63 centares and located in the barrio of Santa Monica, municipality of Concepcion, Province of Tarlac. The Director of Lands filed his opposition to the registration on the ground that said parcels of land belonged to the public domain.

On September 13, 1915, Vicente Nepomuceno, judge, rendered a decision adjudicating to Henson the parcel of land in question in this case and declaring the rest of the lots, claimed by him, public land. Said adjudication was, however, subject to the condition that Henson should, within a period of 40 days, segregate the land adjudicated to him and present a new plan and technical description of the same duly approved by the Bureau of Lands and by the chief surveyor of the General Land Registration Office. Instead of complying with this order of the lower court Henson appealed to this court from the part of that decision which declared the rest of the land, applied for by him, as public land. While that appeal was pending in this court (G. R. No. 11662), Henson filed a motion for a new trial based on newly discovered evidence. On May 17, 1918, the court granted the motion and remanded the case to the lower court for a new trial.[1] Upon receipt of the record Judge Nepomuceno, on July 1, 1918, ordered that the case be set for hearing at the next session of that court. So far as the record shows Henson took no further steps in that case to perfect his title to the land in question in this case, which had been conditionally adjudicated to him by Judge Nepomuceno. This was a mistake upon his part as the Director of Lands did not appeal from that decision. If he had complied with the requirement of the lower court and presented a new plan and technical description, a final decree of confirmation and registration would probably have been issued in his favor. Having failed to comply with that order it was absolutely impossible to issue a decree of title in his favor. Such a decree must contain a technical description so that a certificate of title may be issued. All certificates of title must contain a technical description of the land they cover. Therefore the contention of the appellant that the decision of the trial court in registration case No. 33 is final and that that decision in his favor is res adjudicata, is not tenable. As

a matter of fact that registration case No. 33 was finally dismissed on April 30, 1924, over ten years after it was filed in the Court of First Instance of Tarlac. So far as the record shows there were no further proceedings therein with reference to the land in question from September 13, 1915, to the date of its dismissal.

On January 10, 1920, nearly six years after Henson filed registration case No. 33, the Director of Lands instituted two cadastral cases in the Court of First Instance of Tarlac (cases Nos. 8 and 9, G. L. R. O. Cad. Rec. Nos. 186 and 187). In said proceedings Henson claimed, among others, lots Nos. 528, 819, 820, 821 and 822-A, the same land conditionally adjudicated to him in registration case No. 33. On June 29, 1922, Judge Eduardo Gutierrez David rendered a decision in cadastral cases Nos. 8 and 9 adjudicating to Henson, among others, the above mentioned lots with a total area of 32 hectares, 68 ares and 1 centiare. The Director of Lands appealed from that decision. On October 16, 1923, this court revoked (G. R. Nos. 20462 and 20463)[1] the decision rendered by Judge David. This court said:

"Considering the assignments of error of the Attorney General with reference to the lots ordered to be registered in the name of Jose P. Henson by the lower court, it may be stated that the record is very incomplete in that the plans presented by the appellee are very indefinite and uncertain, and that the documents presented by him failed in many respects to show a complete title of the parcels of land in question, nor specific identification of the same. And, moreover, it may be added that during the trial of the cause Jose P. Henson made no claim whatever as being the owner of the following lots which were included in the decree of the lower court: Nos. 622, 623, 624, 625, 626, 627, 734, 735, 851, 852, 853, 1420, 814, 820, 823, 826, and 833. It is difficult therefore to understand how these particular lots could have, under any theory, been registered in his name.

"After a careful consideration of the record and the evidence adduced during the trial of the cause, and without further discussion of the facts, we are fully convinced that the same fails to show that Jose P. Henson or his predecessors in interest had title to any of said lots, or that he or his predecessors in interest possessed or occupied these lots for the period of time and under the conditions by which he might have acquired title. Therefore, the judgment of the lower court decreeing to him the lots mentioned in its decree is hereby revoked, and without any pronouncement as to costs it is so ordered."

If Henson had followed up the conditional decision in case No. 33 and secured a certificate of title to the land in question and presented that certificate in these cadastral cases as proof of his ownership, the decision of Judge David would not have been revoked by this court. A Torrens title issued for land, included later in a cadastral proceeding, must be respected and protected by the cadastral court.

The attorney, representing Henson before this court, asserts, and he is correct, that this court did not specifically declare the land in question as public land. In a cadastral proceeding the Government of the Philippine Islands, represented by the Director of Lands, is the applicant, the theory being that all the land included in the cadastral survey is presumed to be public and that all persons who may have any right to or interest in said land or any part thereof, must file their "answers" with the clerk of court in order that they may not lose their rights. It naturally follows that when a person answers, alleging that he is the owner of a portion of the land included in the cadastral survey, and prays that said portion be adjudicated to him and, after hearing, his prayer is denied, that land in so far as the defeated claimant is concerned, is deemed public land. A final judgment against a claimant in a cadastral case is conclusive as to his alleged rights'.

On January 23, 1924, after the decision of this court became final and the record in cadastral cases Nos. 8 and 9 was returned to the trial court, upon motion of the Director of Lands, that court issued an order requiring the provincial sheriff to eject Henson and his tenants from the land in question and to put the homesteaders who had applied therefor in possession.

On November 25, 1927, more than three years after the order of ejectment was issued, Henson filed civil case No.

2489, in the Court of First Instance of Tarlac, against the Director of Lands, alleging that the appeal in cadastral case No. 9 was filed after the time for appeal had expired; that the decision of this court, upon said appeal, was therefore null and void and prayed that the Director of Lands be enjoined from disposing of the lots which had been adjudicated to him in registration case No. 33. On October 3, 1928, the trial court issued an order denying the petition of Henson and he again appealed to this court (55 Phil., 586). In affirming that order this court said:

"In conformity with the ordinary practice, the General Land Registration Office on January 10, 1923, sent notices of the adjudications to the litigants in the two cases. The provincial fiscal, on behalf of the Director of Lands, thereupon appealed from the decisions in regard to Henson, and on February 6, 1923, he perfected the appeals by bills of exceptions, and in this court the cases were given the numbers G. R. 20462 and 20463. No objection to the appeals was presented by Henson, and briefs were filed by both parties, and as a final result, this court on October 16, 1923, reversed the decision of the lower court and declared all the lots in question public lands. In 1924, the various lots were distributed among the homesteaders who had occupied the land for some time.

* * * * *

"As stated by counsel for the plaintiff, 'this is a suit in equity whereby the plaintiff seeks equitable relief against a judgment rendered by the Supreme Court.' It is a well known maxim that 'equity aids the vigilant, not those who slumber on their rights.' In the cases in question, the herein appellant let all objections pass for over four years. and in the meantime, the title to the land involved had been granted other persons in good faith. It is indeed too late to claim that the appeals referred to were unauthorized by law and must be declared null and void. (Glazier vs. Carpenter, 16 Gray [Mass.], 385; 3 C. J., 371.)"

In his complaint, in the case now under consideration, the plaintiff alleges that he is the absolute owner of the land in question; that he bought the land from Doroteo Narciso on October 16, 1913, and from that date until January 15, 1924, he had been in continuous, public and peaceful possession as owner of said land; that on the date, mentioned above, the defendant Director of Lands, "sabiendo muy bien dicha posesion del aqui demandante, de mala fe e ilegalmente, y a espaldas del aqui demandante, presento a este Juzgado una mocion para la expedicion a su favor de un mandamiento de posesion sobre la mencionada parcela de terreno con lanzamiento del aqui demandante"; that before he bought the land from Doroteo Narciso, the latter had been in possession thereof for at least thirty years having bought it from Julian Ramos and that Doroteo Narciso had procured the registration of "una informacion posesoria" covering said land. He prays that the possession of the land be restored to him; that the homestead claims of the defendants Candelaria Mercado as administratrix of the estate of Lorenzo Mercado and Emigdio Bantig be declared null and void and that the defendants be sentenced to pay him damages.

In registration case No. 33 and in cadastral cases Nos. 8 and 9 the herein plaintiff, Jose P. Henson, based his claim as owner of the land in question upon the same facts alleged in his complaint in this case.

It has been shown that he abandoned any advantage he may have acquired in registration case No. 33 by not complying with the order of the court discussed above and that in cadastral case No. 9 this court revoked the judgment of the trial court decreeing to him the land now in question in this case.

In view of the foregoing, and after giving due weight to all the arguments advanced in the excellent brief of the attorney now representing the plaintiff, it is held that the decision of this court in cases Nos. 8 and 9, G. L. R. O. Cadastral Record Nos. 186 and 187, is conclusive and final as to the alleged rights of Jose P. Henson to the land in Question in this case.

The judgment of the lower court is affirmed with costs in this instance against the plaintiff-appellant.

Malcolm, Villa-Real, Hull, and Imperial, JJ, concur.

[1] Henson vs. Director of Lands, not reported.

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