

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, APPLICANT AND APPELLANT, VS. CAROLINA MONTILLA ET AL., CLAIMANTS-APPELLANTS AND APPELLEES.

G. R. No. 39745. November 27, 1934

Ponente: BUTTE, J.

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BUTTE, J.:

Both the Government of the Philippine Islands and the claimants, Carolina Montilla et al., appealed from the decision of the Court of First Instance of Pangasinan in cadastral case No. 42, G. L. R. O. Record No. 1373, involving the title to three parcels of land containing 778 hectares, 52 ares and 84 centiares situated in the barrio of Mabilao, municipality of San Fabian, in the Province of Pangasinan. Besides these parties a number of applicants for free patents and homesteads presented their claims to different portions of the land in question.

The Government concedes to the claimants-appellees, Carolina Montilla et al., the 189 hectares and 34 ares of the 768 hectares involved in this proceeding shown upon the plan Ig-307 (Rs-352), Exhibit E, by virtue of the judgment rendered in favor of Eduardo Montilla, their father, in G. L. R. O. Record No. 742, on May 26, 1908. The issue here between the Government and the Montillas involves the remainder of said lands, being 579 hectares more or less. Of the latter the trial court awarded 200 hectares to the claimants-appellees excluding therefrom several tracts to which title had been previously granted to others in other land registration cases. The Government's principal assignments of error are that the trial court erred in not finding that the claimants-appellees are entitled to only 189 hectares and 34 ares of the land in question and in not holding that, with the exception of the said 189 hectares and 34 ares, the remaining lands shown in said Exhibit E are public lands.

We have come to the conclusion that these assignments of error are well taken. It has been impossible for us to figure out from the decision of the trial court or from the evidence and documents of record the description of the "otra extensión de doscientas hectareas" which the trial court awarded to the claimants-appellees. If this tract lies to the east of the 189 hectares and 34 ares conceded to the claimants by the Government, it has been occupied by various homesteaders for many years and the evidence is not convincing that any part of it was ever put in cultivation and kept in continuous possession by the claimants-appellees or their predecessors in title. Exhibits 14, 15 and 17 are offered by the claimants-appellees as the basis of their title to the 200 hectares awarded to them by the trial court. Exhibit 17, dated in Manila, December 20, 1888, is a notice from the Intendente General de Hacienda calling on Manuel Santa Maria to pay the sum of P477.42 for a composition title "de un terreno que posee en los sitios o barrios denominados Rabon, Tiblon y Mamanpan" in the Province of Pangasinan. Exhibit 20, dated in Manila, October 9, 1889, is a communication from the Inspector General of Forestry addressed to the Intendente General de Hacienda calling attention to the fact that P165 of the amount paid for his composition title as stated in Exhibit 17 should be refunded to Manuel Santa Maria because of an error in the survey, the former charge based on an area of 289 hectares and 34 ares instead of 189 hectares and 34 ares. Plainly, therefore, Exhibits 17 and 20 show that Manuel Santa Maria, the predecessor in title of the appellees, acquired a

composition title to 189 hectares and 34 ares and no mention is made in said composition title of the additional 200 hectares now claimed by the appellees. There is therefore no documentary evidence of any valid title to the 200 hectares of public land awarded by the trial court to the appellees.

These exhibits were all before the Court of First Instance of Pangasinan in Record No. 742 and were likewise offered in that case as a basis of Montilla's claim of title, and the court then found and held that the claim to additional lands beyond the 189 hectares and 34 ares was not supported by the evidence and denied the registration thereof in favor of the then applicant Eduardo Montilla through whom the present appellees claim. From an examination of the entire record we are convinced that in the absence of any new or additional evidence the former decision in the Court of First Instance in said case No. 742 was correct and should have been followed by the trial court in the present case.

In view of the foregoing, the judgment appealed from is modified by adjudicating to the claimants-appellees the 189 hectares and 34 ares of the lands here involved awarded to the claimants-appellees by the trial court and declaring the rest of the lands shown upon plan Ig-307 (Rs-352), Exhibit E, to be public lands, subject, however, to the existing rights of the applicants for homesteads and free patents, with costs in this instance against the claimants-appellees.

Malcolm, Hull, Imperial, and Goddard, JJ., concur.

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