

CRISTOBAL MARCOS, APPLICANT AND APPELLANT, VS. THE DIRECTOR OF LANDS ET AL., OPPOSITORS AND APPELLEES.

G. R. No. 40490. September 05, 1934

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the applicant Cristobal Marcos from the judgment entered by the Court of First Instance of Masbate in registration case No. 61, G. L. R. O. Record No. 40263, the dispositive part of which reads as follows:

"Wherefore, in accordance with the evidence presented, the court declares that the applicant Cristobal Marcos, married to Justa Loneso, is the owner of the land described in plan, Exhibit A, as shown by the sketch, Exhibit 3, of the Director of Lands, and upon amendment of the application and the plan Exhibit A, in conformity with the facts above stated, the court orders the registration of said land in favor of Cristobal Marcos and his wife Justa Loneso. After this decision has become final, it is ordered that the corresponding judgments, orders and decrees be issued.

"The applicant shall pay the costs of the proceedings. It is so ordered."

In support of his appeal, the appellant assigns the following alleged errors as committed by the trial court in its said decision, to wit:

"1. The trial court erred in sustaining the opposition of the Director of Forestry on the following grounds: (a) that the portion of land (parcel 1) is a mangrove swamp belonging to the Government included in the plan of the land applied for, and that the Government has issued a license to the Syndicate Mining Company to cut timber thereon; (b) that the portion (parcel 2) forms a part of the forestal reservation certified by the Government to be unsuitable for agricultural purposes.

"2. The trial court erred in declaring that the mangrove swamp, which bounds the land applied for on the south, is included in the plan of the applicant.

"3. The trial court erred in sustaining the opposition of the Director of Lands on the ground that the portion objected to by him is public land which is not included in the royal title of Aldecoa and Company.

"4. The trial court erred in not ordering the issuance of a title to all the land applied for in favor of the applicant, with the exception of the portion occupied by the municipal cemetery in the barrio of San Isidro, Aroroy, Masbate, Philippine Islands."

This case originated from an application filed by Cristobal Marcos praying for the confirmation of his title to the land the boundaries, area and technical description of which are shown in the plan attached to the application; and the registration thereof in his name, in accordance with the Land Registration Act, invoking in his favor the benefits granted by Chapter 8 of Act No. 2874, by reason of the fact that he has been in possession of said land, built a wire fence around it and dedicated it to the cultivation of coconuts and to pastureage.

Said application was opposed by the Director of Lands through the Attorney-General, who alleged that the land, the registration of which is sought, is public land belonging to the Government of the United States under the control and administration of that of the Philippine Islands, and that the applicant has not proven that he, either by himself or by his predecessors, has sufficient title for the registration of said parcel which has an area of 13,320,340 square meters, or that he has acquired it from the Spanish Government by purchase or adjustment with the State; or even obtained possessory information which is equivalent to an adjustment according to the provisions of the Royal Decree of February 13, 1894; and prayed that said application be denied and the land, the registration of which is sought, be declared public land.

The Director of Forestry likewise opposed the application alleging that in the parcel of land sought to be registered are included certain portions of public forest of the Government of the Philippine Islands, and prayed that said portions be segregated from said parcel.

The following facts have been proven at the trial, some without dispute and others by a preponderance of the evidence, to wit:

On March 1, 1889, the General Director of Civil Administration of these Islands, during the former regime, issued in favor of Aldecoa y Cia. a title by adjustment with the State to a piece of land having an area of 898 hectares, 18 ares and 50 centares, situated at Natimbunan, barrio of Dayjagan, within the jurisdiction of the municipality of San Agustin, Province of Masbate and Ticao, which was bounded on the north by public land, on the east by the Dayjagan River, on the south by said river, the land of Angelo Caballero and mangrove swamps of the Government, and on the west by said mangrove swamps, the seashore and the Tagarigni Brook. (Exhibit A.)

On March 11, 1896, Aldecoa y Cia. sold said land to Tomas Madrid by means of a public instrument, Exhibit B, wherein the same area and the same boundaries in the adjustment title, Exhibit A, were stated.

On July 2, 1906, Tomas Madrid declared the land in his name for taxation purposes (Exhibit "2-Director of Lands") describing it as follows: North, public land; east, Dayjagan River; south, Dayjagan River and the land of Angelo Caballero; west, mangrove swamps, seashore and Tagarigni Brook. Area, 898 hectares, 18 ares and 50 centares.

On November 8, 1912, Tomas Madrid, in turn, sold the land to one Severo Madrid, stating in the deed of sale that said land is situated in the barrio of San Isidro; that it has an area of approximately 898 hectares, 18 ares and 50 centares; and is bounded on the north by public land, on the east by the Dayjagan River; on the south by said Dayjagan River, the land of Angelo Caballero and mangrove swamps of the State; and on the west by said mangrove swamps, the seashore and the Tagarigni Brook. (Exhibit C.)

On December 9, 1927, Severo Madrid, in turn, sold the land to the herein applicant Cristobal Marcos, describing it as situated in San Isidro, municipality of Aroroy, Province of Masbate; having an area of approximately 1,400 hectares, and bounded on the north by public land and without any visible sign; on the south by the Dayjagan River and the land of Angelo Caballero, with said river as a visible sign; on the east by said Dayjagan River, and without any other visible sign except the river; and on the west by the seashore and the Tagarigni Brook (Exhibit B).

On March 21, 1929, a revision of said tax declaration was made in the name of Severo Madrid stating that said land had an area of 1,095 hectares, 51 ares and 36 centares, and is bounded on the north by public land, on the east by the Dayjagan River and the land of Angelo Caballero; on the south by said Dayjagan River, and on the west by the seashore and a brook. (Exhibit "1-Director of Lands.")

In view of the application filed by Cristobal Marcos, the Director of Lands ordered an inspection of the land by

one of his inspectors, who submitted his report (Exhibits "3 and 4-Director of Lands"), the pertinent portions of which are as follows:

"11. That the northwestern portion of this land with an area of about 50 hectares is inside of Block A-Timber Land of the Bureau of Forestry;

"12. That all the papers, documents, and tax declarations compiled and certified by the former investigator which were presented as exhibits in this investigation are found correct upon which the owner bases his claim of ownership.

"13. That these papers and documents show that the land in question had already passed through several hands when Cristobal Marcos acquired it through sale from the last owner, Severo Madrid.

"14. That based upon the 'titulo real' which is marked Exhibit A, the claim of Cristobal Marcos is for 8,981,850 square meters, while the area surveyed is 13,320,744 square meters. Thus, an excess of 4,338,894 square meters is found.

"15. That the said 'titulo real' also states that the boundary on the west is the sea and the Tagarigni River as corroborated in the Tax Declaration No. 475, but the survey had encroached beyond the Tagarigni, thereby increasing the area claimed."

From the year 1924 up to 1930, the Bureau of Forestry has been issuing permits to cut timber and firewood within certain areas of the land, shown on the blue print (Exhibit "1-Director of Forestry") as "Parcel No. 1 and Parcel No. 2" (Exhibits Nos. "1 to 11-Director of Forestry").

The land granted to Aldecoa y Cia. by composition with the State was used by said company and its successor Tomas Madrid as pasture for their cattle.

The principal question to be decided in this appeal is whether or not the land, the title to which was granted to Aldecoa y Cia. by the Spanish Government by virtue of a composition with the State (Exhibit E), comprises all the land having an area of 1,400 hectares, the registration of which is sought by the applicant-appellant Cristobal Marcos, in accordance with the provisions of Act No. 496, otherwise known as the Land Registration Act.

It was noted that the land the title to which was granted by the Spanish Government by means of a gratuitous and onerous composition with the State (Exhibit E), is situated at Natimbunang, barrio of Dayjagan, within the municipality of San Agustin, Province of Masbate and Ticao; has an area of 898 hectares, 18 ares and 50 centares; and is bounded on the north by public land, on the east by the Dayjagan River, on the south by said Dayjagan River, the land of Angelo Caballero and mangrove swamps of the State, and on the west by said mangrove swamps, the seashore and the Tagarigni Brook; that in the deed of sale dated March 11, 1926, which was executed by Aldecoa y Cia. in favor of Tomas Madrid (Exhibit D), the said area and boundaries were stated; that in the deed of sale of said land dated November 8, 1920, which was executed by Tomas Madrid in favor of Severo Madrid, the same area and boundaries were stated; that in the sworn tax declaration (Exhibit "2-Director of Lands") made by Tomas Madrid on July 2, 1906, the same area and boundaries were stated; that only in the deed of sale executed by Severo Madrid on December 9, 1927, in favor of the herein applicant-appellant Cristobal Marcos, was it stated for the first time that the land was used for pasture and had an area of approximately 1,400 hectares, being bounded on the north by public land and without any visible sign; on the south by the Dayjagan River and the land of Angelo Caballero, with said river as a visible sign; on the east by said Dayjagan River, with no visible sign except the river; and on the west by the seashore and the Tagarigni Brook; and that on March 21, 1929, upon the revision of said tax declaration on said land in the name of Severo Madrid, it was stated that the area of said land was 1,095 hectares, 51 ares and 36 centares. It will be noted that in the sale made by Aldecoa y Cfa. in favor of Tomas Madrid, on March 11, 1896, the tax declaration made by Tomas Madrid on July 2, 1906,

and the deed of sale executed by Tomas Madrid in favor of Severo Madrid, on November 8, 1912, it had always been stated by the successive vendors thereof that the land had an area of 898 hectares, 18 ares and 50 centares, and that only in the deed of sale executed by Severo Madrid in favor of Cristobal Marcos, on December 9, 1927, was it stated for the first time that the area of the land was approximately 1,400 hectares, without specifying, as in the former deeds of sale, the number of ares and centares; and that on the northern part thereof adjoining public land there was no visible sign, taking particular care to state the existence or non-existence of visible signs in the description of each boundary; but upon revision, in the name of Severo Madrid' who sold the land to Cristobal Marcos, of the tax declaration originally filed by Tomas Madrid, it was stated that the area thereof was 1,095 hectares, 50 ares and 36 centares.

It appears therefore that from November 8, 1912, when Severo Madrid acquired the land, to December 9, 1927, when he sold it to Cristobal Marcos, said land increased by about 600 hectares.

To justify his claim that the land, the title to which was granted by the Spanish Government to Aldecoa y Cia. by a gratuitous and onerous composition with the State, really had an area of 1,400 hectares, the applicant-appellant Cristobal Marcos attempted to prove that the entire area described in his plan has been successively used for pasture by Aldecoa y Cia., Tomas Madrid, Severo Madrid and himself, and had a wire fence which has already been destroyed, with no remaining visible signs except molave posts, a rock on which a balete and a banuyo tree have grown, all on the northern part thereof which adjoined public land, and now that of Domiciano Otaysa. If said signs had existed during all that time, it is strange that they have not been mentioned upon the execution of the deed of sale, Exhibit B, by Severo Madrid in favor of Cristobal Marcos, on December 9, 1927. On the contrary, particular care was taken in stating on what boundaries were there visible signs and where there were none, particularly the absence of every visible sign on the northern side which adjoins public land.

Granting the non-existence of any boundary mark on the northern side of the land sought to be registered, the testimony of all the witnesses who testified on posts and wire fences, fails by itself; and if said signs really exist, they have been placed at a date subsequent to that of the sale of the land by Severo Madrid to the herein applicant-appellant Cristobal Marcos, on December 9, 1927, when, as heretofore said, it was clearly and expressly stated that no visible sign existed on said northern side. Furthermore, the kind and number of head of cattle that were pastured on said land were not mentioned in order to prove whether or not the excess of more than 600 hectares over the area stated in the title by composition with the State, together with the latter, was necessary for the maintenance and development of the industry and infer therefrom the actual possession and occupation of the 1,400 hectares sought to be registered. But even if it had been sufficiently proven that Cristobal Marcos had been in the real and actual possession and occupation of said excess of 600 hectares, and had utilized it as pasture land, nevertheless, he would not be entitled to its registration in accordance with the provisions of section 45 (b) of Act No. 2874, inasmuch as his said possession under claim of ownership only began in the year 1927, and not in the year 1894.

In view of the foregoing considerations, we are of the opinion and so hold that when in a title to a parcel of public land, acquired by composition with the State and issued under the former regime, in accordance with the rules and regulations then in force, the area thereof is stated in hectares, ares and centares, and the boundaries, among them being a parcel of public land, are not all natural, the registerable area cannot exceed that stated in said title, unless it is conclusively proven that the excess thereof has been acquired for the period, and in the manner and form prescribed in the Public Land Act now in force.

Wherefore, finding no error in the appealed judgment, the same is affirmed in all its parts, with costs against the appellant. So ordered.

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

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