

MATIAS N. SALES, PETITIONER-CLAIMANT AND APPELLEE, VS. THE DIRECTOR OF LANDS ET AL., OPPOSITORS AND CLAIMANTS. THE DIRECTOR OF LANDS, APPELLANT

G.R. No. 41901. August 15, 1935

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

This is an appeal taken by the Director of Lands, in behalf of the Government of the Philippine Islands, from the decision rendered by the Court of First Instance of Camarines Sur, ordering the registration under Act No. 496 and the Cadastral Law of a parcel of land measuring 117 hectares, together with its improvements, situated in the municipality of Calabanga, of the above-named province, in favor of the applicant, with the exception of certain portions claimed by Aristeo N. Sales, Martin N. Sales and Paulino Andal.

In registration case No. 675 of said court, G. L. R. 0. Record No. 43855, Matias N. Sales applied for the registration of said land. The application was opposed by the Director of Lands, in behalf of the Government of the Philippine Islands, Joseph Yabour, James Yabour and Benigno Res; the first alleging that the property is a part of the public domain and belongs to the State and that the applicant has no title and has not acquired the property from the Government by virtue of any valid transfer or conveyance; and the second alleging that they are homesteaders in possession of certain portions granted to them by the Director of Lands.

The same land was included in the survey made in cadastral case No. 14, G. L. R. 0. Record No. 1122, and in the plan was identified as lots Nos. 48, 49, 50, 51, 52 and 53. In this cadastral case the same land was claimed by the same parties and also by Aristeo N. Sales, Martin N. Sales and Paulino Andal who claim certain portions covered by the aforesaid lots. By agreement between the latter and the applicant, said portions were adjudicated to them.

The same land and the same parties being involved, both cases were jointly tried and only one decision, which is now on appeal, was rendered therein.

Exhibit C, which is a certified copy of certain registrations appearing in the registry books of the Province of Camarines Sur, shows that at 7 o'clock a. m., on December 12, 1892, there was presented for registration the possessory information case instituted by Eusebio Falcon to establish his possession of a rural or pasture land situated in Talacop, municipality of Calabanga, Province of Camarines Sur, containing an area of 50 hectares, and bounded on the north by the coast of San Miguel Bay; on the east by Damaso Aniceto, Juan Quilao and Laurencio Gambot, on the south and west by the so-called Talacop stream. In the same document, under registration No. 2, it is stated that all of the land was sold by Eusebio Falcon to the spouses Agapito Escaro and Concepcion Quizon for the sum of one thousand five hundred pesos (P1,500), as evidenced by the deed executed to that effect, dated October 31, 1923, before Manuel Siguenza, notary public.

Falcon declared and presented the land for taxation purposes for the first time in 1917 under his tax declaration No. 6704. Somehow the land was given a greater area, whereupon Falcon appealed to the municipal council of Calabanga alleging that his land contained 50 hectares only according to his possessory information. The

municipal council acted favorably on the appeal and in its resolution No. 146 of July 14, 1917, ordered that it be stated in the declaration filed that the true area of the property was 50 hectares. In this declaration of Falcon he described the land with the same boundaries appearing in the possessory information.

The aforesaid tax declaration and those filed subsequently were substituted in 1920 by a revised declaration wherein it is stated that the land contains 50 hectares, valued at P500, and is bounded on the north by the San Miguel Bay, on the east by Jacob Moran and public lands, on the south by public lands, and on the west by public lands.

On November 1, 1923, Agapito Escaro declared the same land for tax purposes and described it as containing 50 hectares, valued at P500, with the following boundaries: on the north by the San Miguel Bay and the land of Benito Fernandez; on the east by Jacob Moran and public land, on the south by public land and on the west by public land. Subsequently Escaro addressed a letter to the provincial assessor requiring him to substitute 115 hectares for the area of 50 hectares stated in his tax declaration.

On March 27, 1925, Agapito Escaro executed a deed before Serafin S. Abad, notary public, whereby he donated to the herein applicant, Matias N. Sales, the parcel of land which he said to have declared for taxation purposes in the sum of P500. In the deed the land is described as containing an area of 40 hectares and is bounded on the north by the land of the deceased Lorenzo Gambot, now belonging to Benito Fernandez, Gabriel Moran and Anastasio Romero; on the east by the old Manguring or Cumaguinquing road and by the land of Juan Quilao and Domingo Panambo, now belonging to Silvestre Papillera and Cirilo Gasilla; on the southeast by the land of Damaso Aiiete, now belonging to Apolonio Oliquino; on the south by the Talacop River, and on the west by land of the donor Agapito Escaro. The consideration for the transfer according to the deed was merely the intimate friendly relations between him and the donee.

Notwithstanding the aforesaid donation, Agapito Escaro and his wife instituted registration case No. 248 of the Court of First Instance of Camarines Sur and applied for and obtained the registration of the land which they had purchased from Eusebio Falcon on October 31, 1923. The land thus registered in his name contained 268 hectares. According to the decision rendered in the case, the land which Falcon sold to Escaro was described as follows: "A parcel of agricultural, pasture, and cogonal land, with seven bearing coconut trees, containing an area of 50 hectares, and bounded on the north by the San Miguel Bay; on the east by the lands of Juan Quilao (now land of Aniceto Tavardillo), of Damaso Anete (now belonging to Fa-ustino Tandog), and of Laurencio Gambot (now belonging to Benito Hernandez); on the south by the Talacop River, and on the west by the same Talacop River."

In his deposition Falcon admitted having sold to Adriano Igusquis, in 1900, another portion of the same land containing 60 hectares. The portion which Escaro and his wife registered in their name measured 268 hectares, and the other portion which the applicant now seeks to register in his name has an area of 117 hectares; wherefore, the land which originally belonged to Eusebio Falcon and which, according to the possessory information, contained 50 hectares only, had a total area of 445 hectares.

The foregoing constitutes the facts which have been established and admitted without discussion by the parties.

The evidence relative to possession, cultivation, and improvements is somewhat contradictory, but a strong preponderance thereof shows that, with the exception of a very small portion, it is all grass land invariably devoted to the pasture of animals. The homesteaders-oppositors cultivated the portions occupied by them, tilled and planted them to coconuts, and built their small houses thereon. The applicant, through his laborers, also planted small portions to coconut trees and constructed two houses of strong materials in 1925 and 1927. Before the donation to the applicant, not only cattle and other animals of Falcon and Escaro grazed upon the land but also those of other neighbors and owners who sent their animals to the place.

In his six assignments of error, the appellant contends that the trial court erred: in not holding that the land described in the possessory information never passed to private ownership during the Spanish rule; in not holding that the possessory information, of itself, is not a title; in holding that the possession of the appellee and his predecessors in interest has been peaceful, public, continuous, adverse, uninterrupted, and as owners for a period of forty years; in holding that the land described in the possessory information includes that in question; in not holding that the appellee failed to explain the great difference between the area appearing in the possessory information and the plan which he presented; in not holding that the preponderance of the evidence shows that the land in dispute has not been segregated from the public domain; in decreeing the registration of the land in favor of the applicant; in denying the prayer of the Government, and in denying its motion for a new trial.

We do not intend to discuss separately the errors assigned, but we shall consider and resolve the principal questions raised in order to determine if the applicant is entitled to the registration applied for by him.

There is, first of all, the appellee's contention that the registration of the possessory information amounted to a registration of ownership under the provisions of section 397 of the Spanish Mortgage Law of February 8, 1861. To begin with, we may state that the Spanish Mortgage Law of February 8, 1861, was never in force in the Philippines and, consequently, section 397 thereof relied upon was likewise never in force. The mortgage law in force in this country on December 12, 1892, when the possessory information of Eusebio Falcon was registered, was the Mortgage Law for the Philippine Islands which took effect on October 1, 1889 (Berriz, *Diccionario de la Administmcion de Filipinos*, Anuario de 1889, pp. 395, 396 et seq.), Sections 6,10,11 and 13 of said Mortgage Law read:

"Sec. 6. Every owner who has no written title of ownership, whensoever it might have been acquired, must register his right by first establishing his possession before the judge of first instance of the place where the property is situated, upon hearing the procurator fiscal of the place and citation of the adjoining owners, if he should seek to register the full ownership of any property, and of the owner or other co-owners if he should seek to register a real right. Should the property be situated in a town or district where no judge of first instance of the district resides, he may take said proceeding before the respective justice of the peace, should there be any, or, in his absence, before the goberwadorcillo, upon hearing the land judge (Juez de sementeras), in all cases where the procurator fiscal of the district should be heard.

"The intervention of the prosecuting attorney and the land judge (Juez de sementeras) shall be limited to seeing that the law is followed in the case.

* * * * *

"Sec. 10. The registrations of possession shall state all the circumstances mentioned in section 7, and, in addition, the names of the witnesses who testified, the result of their testimony, the result of the other actions taken in the case, the opinion of the prosecuting attorney, and the peculiar circumstances of the registration, according to their kind, as they appear in the same case.

"The period of possession to be stated in said registrations as having elapsed when these are made, shall be counted for the registration which does not require a just title, unless the person prejudiced thereby shall contradict it, in which event, said period of possession shall be established in accordance with the common law.

"Registrations of possession shall prejudice or favor a third person from the date thereof, but only as to the effects which the law gives to mere possession.

"The registration of possession shall not prejudice one who has a better right to the ownership of the property although the latter's title has not been registered, unless prescription has confirmed and assured the registered right Possession shall have effect between the parties from the time it should have effect under the common

law.

"The provisions of the foregoing sections on registrations of possession shall not be applicable to the mortgage right, which cannot be registered except through the presentation of the written title.

"ART. 11. Every owner who has no written title of ownership, whensoever it might have been acquired, may register said ownership by complying with the following formalities:

"1. He shall present a motion to the judge of first instance of the district where the property is situated, or to that of the district in which the principal portion thereof is situated, in case the property is found in several districts, stating the manner of his acquisition and the legal evidence of such acquisition, and asking that, upon citation of the person from whom said property came, or of his successor in interest, of the adjoining owners, and of the procurator fiscal of the district, the said evidence be admitted and his right be established.

"2. The judge shall transmit said motion to the procurator fiscal, summon the person from whom the property came or his successor in interest, if known, the adjoining owners, and those who may have a real right to the said property; receive all the pertinent evidence offered by the movant, by the interested parties summoned or by the procurator fiscal of the district, within a period of one hundred eighty days, and bring in all unknown persons who may be prejudiced by the registration prayed for by means of edicts to be posted in public places and inserted thrice in the official newspapers of the archipelago so that they may appear in case they desire to assert their right.

"If those to be summoned should be absent, the citations shall be made in accordance with the procedure established in rule 5 of section 7.

"3. Upon the expiration of said period, the judge shall consider in writing the claims and evidence presented to the procurator fiscal or to others who were present at the trial, and in view of the allegations thereof and weighing said evidence reasonably, shall hold whether or not the ownership of the property in question is justified.

"4. The procurator fiscal, or any of the interested parties, may appeal from this decision, and if they do so, the appeal shall be substantiated pursuant to the procedure established for the incidents in the law of civil procedure.

"5. Upon the confirmation or affirmance of said decision, it should be sufficient title for the registration of ownership.

"6. If the value of the property does not exceed 1,000 pesos, the hearing which, under rule 3, should be given in writing to procurator fiscal or to the parties interested, shall be verbal, and the appeal should follow the procedure established for this remedy in the trial of lesser amounts.

"ART. 13. Both in the proceedings regarding possession as well as in those regarding ownership, official paper shall be used, and they shall be substantiated and resolved without allowing any officer who may intervene therein any amount by way of fees or any kind of remuneration."

It will be noted that sections 6 and 11 gave an option to owners who lacked registerable titles, to establish their possession or ownership by instituting judicial proceedings. In other words, there were two kinds of proceedings, one for possession and the other for ownership. The conditions required and the procedure to be followed in each case were essentially different. To establish possession it was sufficient for the applicant to testify on his occupation during the previous years, and although he invariably had to file the application with the judge of first instance of the district, the justice of the peace may act thereon and order the registration should there be no judge of first instance in the place where the property was situated. If ownership is to be established and its registration obtained, the evidence which the applicant had to adduce was of greater weight; he was required not only to

present his testimony on his occupation and title but also that of the adjoining owners and the persons from whom he acquired title or, in his absence, his successor in interest. And in this event, the case had to be tried necessarily before the judge of first instance, upon hearing the procurator fiscal, and the judgment of registration had to come indispensably from said judicial authority.

In view of the legal provisions above-mentioned and the conditions and procedure provided for in either case, it is evident that the proceeding instituted by Eusebio Falcon as well as the registration thereof in the registry, was not for ownership but merely for possession.

The principal reason invoked by the appellee in support of his contention that the land which he seeks to register is a part of that which originally belonged to Eusebio Falcon is that from the very beginning the land of Falcon was bounded on the south by a horse-shoe road. But the truth is that neither in the possessory information nor in the tax declarations presented by Falcon and Escaro was there ever any mention of the horse-shoe road as a boundary of all the land acquired by Falcon by possessory information. In the decision itself obtained by Escaro when he succeeded in registering the 268 hectares in his name and in that of his wife, the horse-shoe road was not mentioned as a boundary of said land on any of its four sides. The first time it was contended that the land of Falcon or any portion thereof was bounded on the east or on any side thereof by the horseshoe road was when Escaro donated the portion of land which is the subject matter of the controversy. In the deed executed for the purpose, it was stated for the first time that the land donated was bounded on the east by the old road of Manguiring or Gumaguinguing. There is, therefore, neither weight nor merit in the contention that the land under consideration forms a part of that described in Falcon's possessory information because all the land of the latter was bounded on the southeast by the said horse-shoe road.

We have seen that if this land were a portion of that which formerly belonged to Eusebio Falcon, the result would be that the area of the entire land would reach 445 hectares, instead of 50 hectares, as clearly stated in the possessory information. The appellee insists that this discrepancy in the area is not important because in the identification of lands, their boundaries are controlling. The principle would be applicable if natural boundaries were involved; but in the instant case it will be seen that, except the north and south sides of the land, bounded by the San Miguel Bay and the Talacop River, respectively, the other sides were bounded by private and public lands.

The only question, therefore, to be determined is whether the appellee was able to explain satisfactorily the great difference in area that would result if his theory were to be adopted. We have carefully gone over the evidence adduced on this point and are convinced that it is far from satisfactory, least of all, persuasive.

In *Pamintuan vs. Insular Government* (8 Phil., 485), the same question was raised because the land sought to be registered was greatly in excess of the area described in the deed of acquisition. This court then said:

"It appears from the deed of purchase dated August 16, 1876, that the land acquired by the applicants has an area of 50 *quiñones* more or less, and that it is bounded on the east by the lands of Anastasio Lising; on the west by forests of Carion and Pinanabtaban; on the south by the mountains and forests of Mabatid and Lomboy; and on the north by the River Parua. Both the area and the boundaries almost agree with the former and original documents of said land.

"But in the petition for registration filed with the office of the register of deeds, with the exception of the River Parua, different boundaries have been designated showing an area of 850 hectares, 91 ares, 68 centares, and 50 decimeters square, which is greatly in excess of the 50 *quinones* stated in said document, and for which no reason is given.

"This great difference as regards the area and the boundaries should be properly explained, and the identity of

the property, the exact area thereof with its true boundaries and the possession of the land now enjoyed by the applicants beyond the limits marked in their own documents, should be proven in a satisfactory manner."

In another case of *Pamintuan vs. Insular Government* (8 Phil., 512), the court again said:

"While the proposition of law laid down by the court below may be true to the effect that natural boundaries will prevail over area, yet when the land sought to be registered is almost seven times as much as that described in the deed, the evidence as to natural boundaries must be clear and convincing before that rule can be applied. No such evidence was given in this case, and the judgment of the court below can not stand."

In the case of *Cusar vs. Insular Government* (13 Phil., 319), it appeared that the land sought to be registered contained an area greater than that stated in the plan prepared by the surveyor, and this court then said:

"In view of the discrepancy between the plans, and of the fact that according to the plan drawn up by the government surveyor the land sought to be registered is larger than as shown by the plan of the applicant, the court below should have proceeded to make an investigation, without approving the second plan. It is not proper to adjudicate to the applicant more land than she possesses and endeavors to enter in the registry."

We, therefore, conclude that the great excess in area, which has not been explained, that the land formerly belonging to Eusebio Falcon would have, if appellee's contention were to be accepted, is another factor which induces us to hold that the land did not form a part of that described in the possessory information; and, naturally, the same could not be transmitted either to Escaro or to the applicant.

We have likewise seen that Eusebio Falcon, when he still owned and possessed all of the land, testified under oath that all that he had was 50 hectares, so much so that he appealed to the municipal council of Calabanga when some officials assigned to the property a greater area, insisting—and obtaining—at the time that his property should not be given an area of more than 50 hectares and that he should not be required to pay a land tax for more than the said area. That testimony and admission militates against the applicant under section 278 of the Code of Civil Procedure.

Finally, the applicant alleges that he and his predecessors in interest have been in the continuous, open, public and peaceful possession of the land for more than forty years, and on this alleged possession he bases his right to register the same. The evidence of possession is fatal both to the applicant and to his predecessors in interest. There is overwhelming evidence indicative that the entire land formerly belonging to Falcon was grass land devoted to pasture, with the exception of certain portions now planted to coconuts. In the sworn tax declarations which Falcon, Escaro and the applicant presented, neither of them showed that there was any improvement or planting of any kind. On the pasture land grazed animals belonging to Falcon and to other neighbors and owners. Whatever planting of value there is on the land was done by the homesteaders-oppositors, and the houses built by the applicant are, as has been said, of recent construction. We conclude that neither the applicant nor his predecessors in interest has been in real possession of the land and that said occupation cannot be invoked as a title to register the land. In the supposition that this land was included in the possessory information, the latter cannot likewise be invoked as a sufficient means or title to register the ownership, because neither the applicant nor his predecessors in interest has been in the continuous and open possession of the property. (*Garcia vs. Hipolito*, 5 Phil., 503; *Garchitorena vs. Postigo*, 12 Phil., 374; *Heirs of Luno vs. Marquez*, 48 Phil., 855; *Government of the Philippine Islands vs. Heirs of Abella*, 49 Phil., 374.)

For the foregoing reasons, the appealed judgment is reversed, and the property which is the subject matter of the application and claims declared public lands. The two houses of strong materials which the applicant constructed on said land are declared private property, without special pronouncement as to the costs in this instance. So ordered.

Malcolm, Villa-Real, Butte, and Goddard, JJ., concur.

Judgment reversed.

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