

JULIAN CABAÑAS, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF LANDS, RESPONDENT AND APPELLANT.

G.R. No. 4205. March 16, 1908

Ponente: TORRES, J.

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TORRES, J.:

Julian Cabañas, a widower residing in the pueblo of San Isidro del Canipo, Province of Leyte, filed an application with the Court of Land Registration requesting that a rural property of which he claimed to be the absolute owner, and which was not burdened by any incumbrance, be registered in accordance with the Land Registration Act. The said property is occupied by him and his laborers, and has an area of 18,741,675.20 square meters, consisting of six portions assessed, according to the last assessment for the payment of the land tax, at \$3,404, United States currency; the manner by which the property was acquired by him, the boundaries of the whole, as well as of each portion, and the plan and description of the same, are contained in the title deeds that accompanied the application.

The proceedings were begun by service upon the Director of Lands, and the Attorney-General appeared for him and in his place. On the 15th of November, the petitioner moved that his former application be considered as amended, with the request that Act No. 926 be applied in his favor in the remote event that his petition could not be granted under the provisions of the Land Registration Act. The record does not show that any answer was made or opposition offered by the Attorney-General to the request for registration based on the right of dominion.

The court, after considering the evidence, both oral and documentary appearing in the case, rendered judgment on the 28th of June, 1907, adjudicating the property to and granting the registration of the same in favor of the petitioner, Julian Cabañas.

The Attorney-General, on behalf of the Director of Lands, excepted to this decision, in so far as it granted the registration under section 54, paragraph 6, of the said Act No. 926, of the sixth and last portion of land with an area of 829 hectares 81 ares and 19 centares, acquired by adverse possession, and gave notice of his intention to present the corresponding bill of exceptions for the review of the above-mentioned portion of said judgment, and further asked for a new trial on the ground that the evidence did not sufficiently justify the decision which was contrary to law. The petition was denied, to which denial the appellant excepted.

As may be seen from the foregoing statement of facts, this case is submitted to this court with the appeal interposed by the Attorney-General by means of the corresponding bill of exceptions; but it should be noticed that the petitioner, in replying to the brief of the representative of the Director of Lands, alleges that the appeal is not admissible for the reason that the appellant had neither answered nor in any manner opposed the application for registration, from which fact it is presumed that he admitted all the allegations made by the petitioner, according to section 94 of the Code of Civil Procedure, and that the respondent was included in the general declaration of default ordered by the court in accordance with the provisions of section 36 of Act No. 490.

"SEC. 94. The answer.—The answer is a defense in writing, made by a defendant to the charges contained in a

complaint filed by the plaintiff against him. The answer of the defendant shall contain:

"1. A general or specific denial of the material allegations of the complaint, controverted by the defendant. A general denial only puts in issue the material allegations of the complaint;

"2. A statement of any new matter constituting a defense or counterclaim. A material allegation of the complaint which is neither generally nor specifically denied in the answer, shall be deemed to have been admitted."

As no answer in writing was made, nor any opposition offered to the application for registration, it follows that all the allegations contained in the same must be considered as admitted, owing to the absence of a specific or a general denial on the part of the appellant, following the provisions of the foregoing section of the Code of Civil Procedure. Section 35 and the first part of section 36 of Act No. 496, as amended by Act No. 1699, provided that—

"SEC. 35. If no person appears and answers within the time allowed, the court may at once, upon motion of the applicant, no reason to the contrary appearing, order a general default to be recorded and the application to be taken for confessed. By the description in the notice, 'To all whom it may concern,' all the world are made parties defendant and shall be concluded by the default and order. After such default and order the court may enter a decree confirming the title of the applicant and ordering registration of the same.

"SEC. 36. If in any case an appearance is entered and answer filed, the case shall be set down for hearing on motion of either party, but a default and order shall be entered against all persons who do not appear and answer, in the manner provided in the preceding section."

Hence, as the Government was included in the general default ordered in the judgment appealed from, and having recognized the propriety of the petition for registration of the title deeds above referred to, the court below acted in accordance with the law when rendering the aforesaid judgment ordering the registration applied for.

Against the above decision the Director of Lands had no right to interpose an appeal to this court, because he could allege no damages in support of his appeal, nor were any of his rights injured thereby, inasmuch as no right of possession was claimed by him nor any opposition offered by an answer in writing to the application of Julian Cabañas for the registration of the title to his land filed in the Court of Land Registration.

In the decision rendered in case No. 3637, *Roxas vs. Cuevas*,^[1] the following doctrine was laid down:

"Scope of the respondent's appeal.—In order that an application for registration of the title in the Court of Land Registration may be objected to, pursuant to the provisions of Act No. 496, the opposition must be based on the right of dominion or some other right opposed to the adjudication or recognition of the dominion of the applicant, whether it be limited or absolute; and if no such rights of the opposition have been injured the latter can have no right to appeal from the judgment, whatever it may have been; neither the said act nor any other law grants to anyone the right to appeal on behalf of another party, and not in his own name and by reason of his own interest. It is only the legal personal right of the respondent prejudiced by the judgment of the lower court that can be considered by this court upon appeal. As no claim was made by the respondents in their own name, and as the decision which they seek from this court is that it be held that the land adjudicated by the judgment appealed from is the property of the Government, there is no possible way for this court to consider and decide as to a right which has not been claimed on appeal by the party really prejudiced. In the present case the proper party would be the Insular Government, represented by the Attorney-General, and the latter has not appealed from the judgment."

The above legal doctrine was likewise considered in the decision rendered in case No. 3628, *Couto Soriano vs. Cortes*.^[1]

Therefore, the party who did not oppose the petition for the registration of a property, basing its opposition on the

right of dominion over the same, can not allege any damage or error of law against the judgment whereby the registration was ordered, for the reason that it did not allege or pretend to have any right whatever to the land in question; for this reason no right of such party was injured by any error which should be corrected by a court of appeal in the second instance.

In applying the above doctrine to the present case, no injury appears to have been caused to any of the exclusive rights of the Government which should properly be the subject of an appeal to this court; under the circumstances such an appeal could neither be interposed or admitted, according to law. Nor does the record show any legal reason for the reversal of the said judgment.

It is, therefore, held that the appeal interposed against the judgment dated the 28th of June, 1907, together with the bill of exceptions submitted to this court, was improperly admitted, and no special ruling is made as to costs. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

[1] 8 Phil. Rep., 469.

[1] 8 Phil. Rep., 459.

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