

VICENTE SANDOVAL Y MANLAVE ET AL., PETITIONERS AND APPELLANTS, VS. THE INSULAR GOVERNMENT, RESPONDENT AND APPELLANT.

G.R. No. 4206. February 01, 1909

Ponente: TORRES, J.

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TORRES, J.:

Subject to a separate statement of the basis upon which this court confirms the judgment of April 16, 1907, appealed from, by virtue of which the registration of the parcels of land, the plans of which are marked with the letters A, B, C, D, E, I, J, K, L, M, N, O, P, and Q, and the parts of parcels F and G, with the specifications therein set forth, was ordered, and the application, in so far as it refers to the whole parcel marked H in the plan, was denied, said judgment is hereby affirmed without costs.

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

BASIS OF THE DECISION.

FEBRUARY 4, 1909.

TORRES, J.:

The statement of facts and the foundations of law of the decision entered in this matter are of the following tenor:

By a writing dated February 17, 1906, Attorney Perfecto Gabriel, representing Vicente, Manuela, Manuel, and Rosario Sandoval y Manlave, asked the Court of Land Registration, in conformity with the Land Registration Act (Act No. 926), paragraph 6 [sec. 54], for the registration of 17 parcels of real estate owned by his principals, marked with the letters A, B, C, D E, F, G, H, I, J, K, L, M, N, O, P, and Q, the respective descriptions, situation, and boundaries of which are described in said writing; the said properties, assessed at the last assessment, at P44,112, were acquired by inheritance from their late parents, Claudio Sandoval and Evarista Manlave, who died intestate in Palawan on December 31, 1896, and January 17, 1906, respectively; that no encumbrance of any kind exists upon the said properties, nor has any person any rights of participation therein, although in that parcel marked with the letter H, Lucio Villareal, Marcelino Bayos, Juan Endencia, Agustin Rodriguez, and Domingo Cacula, together with other individuals at the instigation of Serafin Rodriguez have, since the latter part of December, 1905, claimed possession of said land; the names of the lessees on shares who occupy the said lands, and the names of the owners of the adjoining estates, all residents of the town of Coron, Province of Paragua, now Palawan, are given as well as the residence and status of the applicants; and that the described lands, in the possession of and owned for more than fifty years by Evarista Manlave, were inherited by her from her late parents, Nicolas Manlave and Silvestra Bartolome, who died on May 8 and September 8, 1888, respectively, but that parcel marked Q was purchased by Claudio Sandoval from its original owner, Loreto Zapla; all said parcels are used for the cultivation of rice and cocoanuts, and, with the exception of the one marked H, which is used as a

pasture for cows and carabaos, are fenced in with bamboo; the applicants therefore claim the benefit of Chapter VI [sec. 54], paragraph 6, of the Public Land Act, and submit the respective plans of said estates and a descriptive report on the same together with a certificate from the president of the town of Culion, Calamianes,

The examiner of titles rendered an opinion opposed to the claim of the applicants who, however, insisted therein. Thereafter, on October 5, 1906, the Attorney-General appeared on behalf of the Director of Lands, setting forth that the lands referred to in the application presented by Vicente Sandoval and others are public property, and that the applicants had not been in open, continuous, exclusive, and notorious possession of the said 17 parcels during the ten years immediately preceding the enforcement of Act No. 926, and for said reason he objected to the registration applied for, and prayed the court to deny the same with costs.

At the trial of the case, evidence was adduced by both parties, and on April 16, 1907, the court below rendered judgment dismissing the opposition on the part of the Attorney-General representing the Insular Government and the Director of Lands, owing to his statement that he did not desire to insist in his opposition to said application with respect to the parcels of land, the plans of which were marked A, C, D, G, I, J, K, L, M, N, O, P, and Q, but that from the parcel G, the triangle formed by the lines B, C, D and D, B, should, however, be excluded, and for the reasons he gave, he stated that the applicants were entitled to obtain a certificate of title to said parcels of land in accordance with paragraph 6 of section 54 of said Act No. 926.

For reasons given it was also held that the representative of the applicants was entitled to a certificate of title in accordance with the paragraph, section, and Act cited above, to the parcels of land referred to in the plans marked B and E, and to the greater portion of the land to which plan marked F refers, with the exception of that portion situated between the Muchong River and the sea and Mount Sinibuyan; therefore, the opposition of the Government with respect to said portion of land in the plan marked F, bounded on the south and west by the sea, and on the north and east by the slopes of Mount Sinibuyan and the Muchong River was sustained, and the opposition with respect to the remainder of parcel F and the parcels B and E dismissed.

The opposition of the Government relative to the whole of the parcel shown in the plan Exhibit H was sustained for reasons given, and therefore, after a declaration of default against all parties concerned with the exception of the Government, the court decreed the adjudication and registration of the parcels whose plans are marked A, B, C, D, E, I, J, K, L, M, N O, P, and Q, and the described portions of the parcels F and G in favor of counsel for the applicants; the application relative to the whole of parcel H, the triangle mentioned of parcel G, and also the indicated portion of parcel F which is bounded on the south and west by the sea and on the north and east by the plains at the foot of Mount Sinibuyan and the Muchong River was dismissed.

Counsel for the applicants excepted to the above decision so far as it dismissed the application with respect to the parcel of land marked H and the indicated portion of parcel F, and moved for a new trial on the ground that the evidence did not justify the judgment in connection with the parts excepted to, and because said judgment was contrary to law; the motion was overruled, to which the petitioner excepted and presented the corresponding bill of exceptions.

On May 22, 1907, the Attorney-General in turn presented a written exception to the said judgment as to the decree granting the adjudication and registration of the parcels of land marked A, B, C, D, E, F, G, H, I, K, L, M, N, O, P, and Q, and in addition moved for a new trial; the motion was overruled.

By another writing of the 23d of July following, the representative of the Government excepted to the overruling of his former motion limiting it to the parcels of land marked with the letters B, E, and F. Bills of exceptions were submitted by both the applicants and the Attorney-General, that of the applicants relating to parcel H and that portion of parcel F, the registration of which were denied; the Attorney-General's bill of exceptions referred to the

three parcels mentioned above.

In view of the fact that counsel for the Government waived his opposition made in the beginning against the application for the registration of the parcels of land marked with the letters A, O, D, I, J; K, L, M, N, O, P, Q, and G, with the exception of that portion of the latter which is a triangle formed by the lines BC, CD, DB, and in view of the fact that the evidence proves that the applicants, by themselves and by their antecessors, have been in open, continuous, exclusive, and notorious possession of the mentioned parcels of agricultural land for more than the last twenty years as the owners thereof, the judge of the Court of Land Registration held that the interested parties were entitled to a certificate of title in accordance with the provisions of paragraph 6, section 54, of Act No. 926, and to that effect decreed the registration of said parcels of land, and dismissed the opposition with respect thereto.

These parts of the judgment have not been impugned, nor are they now the subject of appeal; therefore, this decision will not deal therewith.

As to the parcels of land indicated by the letters B, E, and F, less that portion of the latter which is bounded on the south and west by the sea and on the north and east by the slopes of Mount Sinibuyan and the Muchong River, the record discloses sufficient proof that the ancestors of the applicants, and after their death the applicants themselves, have been in possession of and materially occupied the said land for more than thirty years without any interruption whatever, cultivating certain parts thereof, and using others for the pasture of animals, keeping them fenced in for the purpose of preserving at the same time the trees, shrubs, and bamboo growing thereon in order to meet various needs in the field.

Paragraph 6 of section 54 of Act No. 926 reads:

"All persons who by themselves or their predecessors in interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said Act of Congress of July first, nineteen hundred and two, under a bona fide claim of ownership except as against the Government, for a period of ten years next preceding the taking effect of this Act, except when prevented by war or force majeure, shall be conclusively presumed to have performed all the conditions essential to a Government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter."

As may be seen from the foregoing paragraph, the Act requires not that the land be cultivated, but an open, continuous, exclusive, and notorious possession and occupation of the same with good faith and under claim of ownership for more than ten years prior to the year 1904, in which the said Act took effect, and since it appears of record that the applicants, together with their predecessors have been in possession of the three parcels of land above alluded to, in good faith and under title of ownership, and have performed the requirements established by the law, no legal reason exists for revoking that part of the judgment appealed from referring to the three mentioned parcels of land, with the exception of the small portion situated between the sea and the Muchong River, and which only comprises Mount Sinibuyan; the plain of that name bordering the sitio of Balatbat, which, according to the plan marked F, constitutes the remainder of this parcel acknowledged in favor of the applicants is not included in this exception.

As regards the parcel of land marked in the plan with the letter H, the court has held that the evidence adduced in the case does not prove the open, continuous, exclusive, and notorious possession of the property with good faith which is necessary in order to acquire ownership and right to a certificate of title in accordance with paragraph 6 of the aforesaid Act.

Such a holding accords with the result and the merits of the case, inasmuch as, considering as a whole the

testimony of the witnesses offered by the representative of the applicants, it is not possible to infer therefrom that the open, continuous, exclusive, and notorious possession and occupation of the land comprised in the parcel of 1,501 hectares, marked H, was enjoyed with good faith for more than ten years prior to 1904, with the intention of acquiring the ownership thereof, since, aside from the inconsistencies observed in the testimony of the said witnesses, Vicente Sandoval, one of the applicants, notwithstanding his allegation that he, together with his predecessors and his coowners, had been in possession of such a large tract of land for more than thirty years, avers that he only knew of the land in 1902, in which year it was surveyed and posts were placed to indicate the boundary lines; it does not appear that fences were placed around the entire property; they were only built in certain places in order to prevent the cattle from straying; said fences were often removed to other places as the animals moved on.

Opposed to the statement of the witnesses of the applicants there is the testimony of the witnesses of the Government, who unanimously aver that the land marked in the plan with the letter H was in its entirety a cogonal, suitable for pasture; that animals belonging to different owners grazed over it, among which were those of the Sandoval y Manlave family; that with the exception of a small parcel of about 30 hectares, occupied and plowed by one of them, Hilario Alberto, no one else was known to have ever owned or been entitled to said land, nor had anyone seen the whole of it fenced in; this point is confirmed by the provincial governor, Edward Y. Miller.

It may be true that the forefathers of the applicants, and the latter themselves by means of their servants, allowed their cattle to graze over said land, and in places built fences to prevent the scattering and loss of the animals, but it is none the less true that animals owned by others also used to graze over the said property; the fact that the cattle of the applicants and of their antecessors grazed over the land in question is no conclusive evidence of their dominion, since it has not been proven that they exercised acts of ownership, were in open, continuous, and peaceful possession of the whole of the land, and had caused it to be inclosed to the exclusion of other persons; it does appear as proven in the case that the applicants and their antecessors possessed the said land as owners for the time fixed by the law; and though for the effects of possession as owner the law does not require that the land shall be cultivated, yet it does unquestionably require that whoever claims such possession shall exercise acts of dominion and ownership which can not be mistaken for the momentary and accidental enjoyment of the property.

For the foregoing considerations, and those stated by the court below, the judgment appealed from must be and is affirmed without costs.

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

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