

PEDRO LACASTE, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS, OPPOSITOR AND APPELLANT.

G. R. No. 42338. October 30, 1936

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The Director of Lands opposed the application for registration of the land described in the plan Exhibit A. The court overruled the opposition; declared the applicant Pedro Lacaste and his sisters Ramona, Agustina and Concepcion owners of the land, as sole heirs of the deceased Nicolas Lacaste; ordered its registration as applied for, and declared the free patent No. 18007 issued by the Director of Lands in favor of Agustin Root over a portion of this land, null and void.

The land here in question was in the possession of, and cultivated by, Nicolas Lacaste from 1883 up to his death in 1927, and from this latter date the said possession passed to his son Pedro Lacaste. In 1895 Nicolas Lacaste commenced and obtained a possessory information, which was duly registered, over the land in question, and from 1906 he paid the land tax thereon up to his death. These facts have been fully established and no evidence to the contrary has been adduced. By force of this possession, the land became private property. (*De los Reyes vs. Razon*, 38 Phil., 480; *Susi vs. Razon and Director of Lands*, 48 Phil., 424; *National Bank vs. Ortiz Luis*, 53 Phil., 649.)

The Solicitor-General directs attention to the circumstance that the possessory information presented as evidence in this case refers to several parcels of land measuring in the aggregate 8 hectares, 71 ares and 77 centiares only, whereas the area of the land applied for is 41 hectares, 87 ares and 23 centiares. The brief of the Solicitor-General reproduces the description and area of the parcels of land covered by the possessory information, giving a total area of 8 hectares, 71 ares and 77 centiares. However, we note that parcel No. 5, to which the brief of the Solicitor-General attributes an area of 3 hectares and 5 ares only, appears in the possessory information Exhibit X as containing an area of 23 hectares and 55 ares. This error has an important bearing on this aspect of the case brought out by the Solicitor-General, because it discloses that the difference between the area of the parcels covered by the possessory information and that of the land applied for, is not so great as to affect the identity of the land.

On the other hand, it appears that in 1928 this land was applied for as a homestead by Agustin Root and Salvador Gangani. In 1923, while Gangani's application was still pending, free patent No. 18007 was issued in favor of Root. According to applicant Pedro Lacaste, both Root and Gangani were his tenants upon the land after his father's death, and that in 1928, 1929 and 1930, they gave him a share of the fruits thereof by way of canon. Thereafter and without his consent, Root and Gangani applied for the land as a homestead, whereupon he filed his opposition with the Bureau of Lands. The evidence for the government corroborates the fact that Pedro Lacaste actually filed his opposition, although the same was later denied.

If the land applied for had ceased to be public and has passed to private ownership, the Director of Lands could

not grant a free patent therefor, and having done so, the title thus issued is null and void.

It must be noted that there is no evidence counter to the facts established by the applicant. The only fact proven by the government, as oppositor, through its lone witness Fernando Bernardo, is that before title was issued to Root and before Gangani's application was approved, an investigation had been made by subordinate employees of the bureau who had not been put upon the witness stand in this case.

In view of the foregoing, the appealed judgment is affirmed, without special pronouncement as to the costs. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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