

GABRIEL LASAM, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS AND JOSE CHAN HONG HIN ET AL., OPPONENTS AND APPELLANTS.

G.R. No. 42859. March 17, 1938

Ponente: LAUREL, J.

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LAUREL, J.:

On January 24, 1930, Gabriel Lasam filed with the Court of First Instance of Cagayan an application for the registration of 152 parcels of land containing a total area of 24,723,436 square meters, situated in the municipality of Solana, Province of Cagayan, described in the plan Exhibit K attached to the application. These 152 parcels include the parcel No. 9 here involved.

According to the lower court, the portions of said parcel No. 9 which were opposed during the time of survey were delimited and marked on its plan Psu-67516 attached to the record as lots A to Z, AA to HH, MM to ZZ, AAA to ZZZ, AAAA to ZZZZ, AAAAA, to FFFFF, NNNNN, 35 to 38, and 111 to 143, all inclusive. (Decision of the lower court, Bill of Exceptions of the Government, p. 35.)

The Director of Lands opposed the application on the ground that it is not supported by any title fit for registration and that the land sought to be registered is public land. The brothers Felipe, Jose, and Salvador, all surnamed Narag, who are first cousins to the applicant Lasam, also filed opposition on the ground that they are the owners of parcel No. 9. Oppositions were also filed by Tomas Furigay and 35 other persons as homesteaders; by the provincial fiscal, representing the Director of Forestry, on the ground that portions thereof are public forests; by Francisco Caronan and some 71 other parties, claiming the parcels occupied by them as their exclusive properties; by Jose Chan Hong Hin, on the ground that the application includes his property of about 22 hectares and 50 ares; and by Mauro Antonio, on the ground that the application includes the portion occupied by him and belonging to him. Pablo Soriano succeeded in having the order of general default set aside as to him and was allowed to register his opposition at a later date. Amended applications and oppositions by the parties were subsequently permitted to be filed.

After a protracted hearing, the lower court rejected all the oppositions filed, declared the applicant, Gabriel Lasam, the owner of parcel No. 9, as indicated in the plan Psu-67516 (Exhibit K), and decreed the registration of said parcel in his favor.

On September 10, 1934, counsel for various oppositors, after excepting to the decision, filed a motion for new trial which was denied, and the case was brought before this court by bill of exceptions.

The Narag brothers and the Director of Forestry appear to have abandoned their opposition. They made no attempt to substantiate their claims at the trial.

Counsel for the Director of Lands, et al. and for Jose Chan Hong Hin, et al. make various assignments of error in their respective briefs. It is not believed necessary however, to consider each and every assignment made as the

questions presented may, in our opinion, be reduced to the following propositions: (a) Whether or not the applicant, Gabriel Lasam, is entitled to the registration of parcel No. 9 on the basis of the document presented as Exhibit L, hereinafter to be referred to, or in the alternative, whether or not he is entitled to registration on the basis of public, continuous, and adverse possession under a claim of ownership during the time prescribed by law (par. 9, application); and in the negative, (b) whether or not the numerous oppositors—excluding the homesteaders—are entitled to the parcels which they allege are included in the controverted parcel No. 9. The rights of the homesteaders necessarily depend on the resolution of these two propositions.

Exhibit L purports to be an application, dated June 27, 1873, addressed by Domingo Narag 1.^o to the Alcalde Mayor, in which the former stated that he had been in possession of the land above described and asked that informacion testifical be admitted. The informacion testifical was had before the Alcalde Mayor and appears to have been approved by the Judge of the Court of First Instance without objection on the part of the fiscal. It is the theory of the applicant that Domingo Narag 1.^o, the original owner of parcel No. 5, described in Exhibit L, owed P1,000 from the applicant's father, which amount Narag needed for his candidacy as gobernadorcillo of Tuguegarao, Cagayan, in 1880; that the original of Exhibit L was turned over by the applicant to his lawyer, Vicente Marasigan, who lost it, and for this reason, only a certified copy of the document marked Exhibit L was presented; and that the fifth parcel mentioned in the document, Exhibit L, is the same parcel No. 9 described in the plan, Exhibit E. The Government contends that Exhibit L is not a valid title and does not confer ownership and that even if it were valid, it does not cover so extensive an area as that appearing on the plan, Exhibit K.

The land designated as the fifth parcel is described in Exhibit L as follows:

"5.^a Un terreno o pasto de ganados vacunos llamado Maguirig o Cagguban que linda al poniente con el estero Pangul, al oriente con el pueblo de la Solana al norte con el sitio llamado Maasim y Calabbacao y al sur con el sitio llamado Atayao el cual tiene un cabida de siete mil brazas y herede de mis Padres hace veinte y dos años y en la actualidad es donde posee mis ganados de procreacion."

Parcel No. 9, the registration of which is applied for in these proceedings, is described thus (brief of claimant-appellee, p. 61):

"Por el norte con los barrios de Iraga, Bauan y Bangag;

"Por el este con el Centro y los barrios de Basi, Natapian y Lanna;

"Por el sur con la carretera provincial; y

"Por el oeste barrios de Maguirig, Cagguban y estero Pangul."

We are of the opinion that the court below committed no error in receiving Exhibit L as evidence for the claimant, but its admission by the court below does not necessarily entitle the applicant, Gabriel Lasam, to the registration of the parcel claimed by him in these proceedings. It is apparent that parcel No. 9, as indicated in the plan, Exhibit K, is not the same parcel No. 5 described in document Exhibit L. Whereas Exhibit L gives as boundaries on the north the sitios of Maasin and Calabbacao, Exhibit E gives the barrios of Iraga, Bauan, and Bangag; on the east Exhibit L gives the pueblo of Solana, whereas Exhibit E gives "el Centro y los barrios de Basi, Natappian y Lanna"; on the west Exhibit L gives estero Pangul, whereas Exhibit E gives the barrios of Maguirig, Cagguban and estero Pangul; on the south Exhibit L gives the sitio of Atayao, whereas Exhibit E gives the carretera provincial. While there may be partial identity as to boundaries on the east and west, such identity is lacking as to the boundaries on the north and south. This discrepancy is accentuated by the admission of the applicant that the parcel whose registration is sought is much smaller than that described in paragraph 6 of Exhibit L. The explanation given by the surveyor, Jose Mallanao, presented as witness by the claimant, is as follows:

"Because on the north side when we went around the lot and I asked for the barrios of Maasin and Calabbacao, the applicant pointed to me a place very far from where he was at the time and where he actually occupied the land, and on the south side he indicated to me the provincial road. I asked why he should not take the actual land indicated by this title and he told me that he was not occupying that portion. That is the reason why I took up the boundary on the south as provincial road. On the east side he indicated to me the center of the municipality of Solana, barrios of Basi, Nangalisan and Lanna, and on the west is a public land partly bounded by the barrios of Maguirig, and Cagguban and estero Pangul."

An applicant for registration of land, if he relies on a document evidencing his title thereto, must prove not only the genuineness of his title but the identity of the land therein referred to. The document in such a case is either a basis of his claim for registration or not at all. If, as in this case, he only claims a portion of what is included in his title, he must clearly prove that the property sought to be registered is included in that title. The surveyor, Jose Mallannao, did not actually check up the boundaries of parcel No. 5 as described in Exhibit L, and in testifying that parcel No. 9, in Exhibit K, is smaller than that described as parcel No. 5 in Exhibit L, he relied mostly on hearsay. For instance, when asked whether north of barrios Iraga, Bauan, and Bangag of the land described in plan Exhibit X, he would locate the sitios of Maasin and Calabbacao, he replied: "They said that Calabbacao is north of that barrio Iraga yet." (Underscoring ours.)

Aside from what has been said with reference to discrepancies in the boundaries, we cannot overlook the fact that the area in Exhibit L is vaguely given as 7,000 brazas. The surveyor for the applicant, Jose Mallannao, calculated the area of the property described in paragraph 5 of Exhibit L on the basis of 7,000 square brazas or 49,000,000 square brazas as 15,695,500 hectares more or less (s. n. pp. 820-822). The area claimed here according to the amended application of February 26, 1930, and plan Exhibit K is 24,723,437 square meters. According to the applicant, before his occupation of the land ceded by Domingo Narag 1.^o, only about 2 hectares were cultivated. (s. n. p. 56, Gabriel Lasam.) And, with reference to the payment of land tax, the Solicitor-General in his brief (p. 12) makes the following observation:

"The property appears to have been declared for taxation purposes as evidenced by revisions of tax declarations, Exhibits G-20 and G-21 (pp. 136,137, record). There had been previous declarations with an area of about 294 hectares (id.) but, according to Exhibit G-22 (p. 138, record), the area which was not previously declared contains 1,685 hectares.

"With the exception of a statement in which it appears that land tax was paid in 1902 (p. 140, id.) there appears in the record no tax receipts evidencing the payment of taxes continuously from 1902 up to this time."

It is not necessary to pass upon the contention of the Solicitor-General that the informacion testifical (Exhibit L) is of no legal effect because of failure subsequently to solicit composition title pursuant to the Royal Decree of June 25, 1880 (Fuster vs. Director of Lands, G. R. No. 40129, Dec 29, 1934), or to convert possession into a registration of ownership in accordance with article 393 of the Mortgage Law (Fernandez Hermanos vs. Director of Lands (57 Phil., 929), for even if we were to accord all the legal force to this document (Exhibit L), it would not serve as a basis for the registration of 24,723,437 square meters.

Having arrived at this conclusion as to Exhibit L, is the applicant entitled to registration because of the required possession during the time prescribed by law? We have examined the evidence on this point both testimonial and documentary, and while there is evidence showing that the claimant might have possessed a portion of the parcel claimed by him and the registration of which is sought, we find the evidence lacking in certainty as to the particular portion occupied and the extent thereof. Counsel for the applicant invokes the doctrine laid down by us in Ramos vs. Director of Lands (39 Phil., 175, 180). (See also Roales vs. Director of Lands, 51 Phil., 302, 304.) But it should be observed that the application of the doctrine of constructive possession in that case is subject to

certain qualifications, and this court was careful to observe that among these qualifications is "one particularly relating to the size of the tract in controversy with reference to the portion actually in possession of the claimant." While, therefore, "possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession", possession under paragraph 6 of section 54 of Act No. 926, as amended by paragraph (b) of section 45 of Act No. 2874, is not gained by mere nominal claim. The mere planting of a sign or symbol of possession cannot justify a Magellan-like claim of dominion over an immense tract of territory. Possession as a means of acquiring ownership, while it may be constructive, is not a mere fiction. In the present case, upon the description of 7,000 brazas as the area of the land said to have been originally possessed by Domingo Narag 1.^o and conveyed to the applicant, only two hectares of which were according to the applicant himself cultivated at the time of such transfer, the applicant would, on the basis of the computation hereinabove referred to and given at the trial by surveyor Jose Mallannao, be entitled under Exhibit L to more than 13,000 hectares, although only 2,432 odd hectares are now being sought for registration in these proceedings. The fact, however, that he is claiming only a portion of the land claimed by him to be included in his title, the further fact that according to his own testimony he has given up more than 1,000 hectares to the Bureau of Forestry, the discrepancies in the boundaries, his tax declarations, and the existence of numerous homesteaders and claimants are significant and tend to show that his possession over the entire portion of the land sought to be registered is not "such as to apprise the community and the world that the entire land was for his enjoyment". (Ramos vs. Director of Lands, supra.)

Our attention is next directed to the decision of this court in Pamittan vs. Lasam and Mallonga (60 Phil., 908) which, according to counsel for the claimant Lasam, is determinative of the ownership of the property now sought to be registered. Said case refers to an action for partition between the heirs of Sofia Pamittan, wife of Gabriel Lasam, originally brought in the Court of First Instance and appealed to this court. The trial court in that case found that parcel No. 7—which is said to correspond to parcel No. 9 sought to be registered in these proceedings—"although acquired during the existence of the conjugal partnership, was proven to be the exclusive property of the husband Gabriel Lasam". This court could not have passed upon the question whether parcel No. 7 was the same parcel No. 9 in these proceedings; nor could it have passed upon the conflicting claims with reference to parcel No. 9, now sought to be registered. Whatever was said in that case could not bind the oppositors in the present case, who were not parties thereto.

The grounds for opposition of the various oppositors are divergent and are based on (a) possession from time immemorial; (b) acquisition by inheritance, purchase and donations propter nuptias and inter vivos; (c) payment of land taxes from 1906, 1915, and 1918 up to the filing of oppositions; and (d) acquisition "a titulo de composicion" with the State. These oppositors denied being tenants of the applicant Lasam. After perusal of the evidence presented by them, we are constrained to accept the conclusion of the lower court that none of the portions or lots claimed by them or any one of them has been sufficiently identified, either by the oral or documentary evidence which they presented. In view thereof, and because of the insufficiency of the evidence presented, we are of the opinion that the lower court committed no error in dismissing their oppositions.

In view of the foregoing, the judgment of the lower court is reversed, without prejudice to the filing by the applicant, Gabriel Lasam, of a new application and plan covering the portion of the land actually occupied by him since July 25, 1894. Upon the determination of that portion by the lower court, let judgment be rendered accordingly. The remaining portion or portions of lot No. 9 as indicated on plan Psu-67516 (Exhibit K) are hereby declared public lands, to be disposed of or otherwise dealt with in accordance with law. Without pronouncement as to costs. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz and Concepcion, JJ., concur.

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