

LIM AN, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS ET AL., OPPOSITORS. THE DIRECTOR OF LANDS, APPELLANT.*G. R. No. 43095. June 12, 1937*

Ponente: CONCEPCION, J.

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This is an appeal taken by the Director of Lands from the decision rendered by the Court of First Instance of Masbate in favor of Lim An who had applied for the registration in his name of a parcel of land divided into 11 lots, situated in the barrios of Palahas and Nabangig, municipality of Dimas-Alang, Province of Masbate. Several oppositions to the application were filed, among them that of the Bureau of Forestry claiming a public forest situated within the parcel of land applied for. The applicant acquiesced in this opposition, whereupon a portion of land having an area of 308 hectares, 55 ares and 74 centiares was excluded from the western part of said parcel, reducing the area of the parcel sought to be registered to 1328 hectares, 16 ares and 92 centiares.

Another opposition filed was that of the provincial fiscal of Masbate, claiming the lot occupied by the public school in the barrio of Nabangig and another lot in said barrio, belonging to the province, with an area of one and onehalf hectares. The applicant likewise agreed to exclude said two lots claimed by the municipality of Dimas-Alang and by the Province of Masbate, respectively, from his application and plan.

Numerous oppositions by persons claiming to be the owners of the respective portions of land occupied by them within the parcel of land sought to be registered, have likewise been presented. The applicant and these oppositors represented by attorneys Amancio Aguilar and Jose L. Almario made a compromise whereby the former acquiesced in each and every opposition filed by the private oppositors and each of the latter bound themselves to pay to the applicant the sum of ten pesos (P10) for each hectare of land involved in their respective oppositions, within the period of ten years from the date of the issuance of their respective titles, said parcels of land claimed by the oppositors in question remaining, in the meantime, mortgaged to the applicant.

Among the oppositions filed were those of Lucas Ariscon, Alberto Escalicas, Higinio Cerillo, Mancio Atim, Cipriano Amancio, Monico Placencia and Lucio Mancio, each of whom had filed a homestead application for the portion of land occupied by him within the parcel which is the subject matter of the application. These oppositions were dismissed by the court upon petition of the applicant because the oppositors alleged that the portions occupied by them were of the public domain and the Attorney-General had filed another opposition claiming that the entire parcel described in the application, including the portions occupied by said homesteaders, is of the public domain.

After the case had been heard, a decision was rendered on June 28, 1934, dismissing the opposition of the Director of Lands and ordering the adjudication of the entire remaining portion of the land to the applicant and his wife Niu Ko, once the portions occupied by the persons whose claims have been admitted by the applicant are separated from the land applied for.

This appeal was filed by the Attorney-General from said decision.

The applicant has attempted to prove by means of his evidence that the large tract of land which he seeks to register belongs to him, having purchased it from Eutiquio Santa Cruz and Lim Enchong, who, in turn, had likewise purchased it from Ubaldo Lim who inherited the land in question from his father Vicente Medina Santos. The applicant attempted to prove that the land described in the plan attached to his application, Exhibit C, is the same land which Christian Chinese Vicente Medina Santos had acquired from the Government by onerous composition on August 25, 1885, Exhibit B, but there is no satisfactory evidence relative to the identity of the land in question. The land adjudicated to Vicente Medina Santos under said title, Exhibit B, has an area of 78 hectares and 45 ares, while the land sought to be registered, described in the amended plan Psu-42354, folio 20, third part, has an area of 1,328 hectares, 16 ares and 92 centiares, excluding the forest claimed by the Bureau of Forestry, which, as already stated, has an area of 308 hectares, 55 ares and 74 centiares. There is no evidence explaining the cause of such great discrepancy between the area appearing in the title and that stated in the plan.

On the other hand, taking into account the boundaries of the land sought to be registered, neither is the identity thereof with that described in Exhibit B established. According to said title, Exhibit B, there was only one northern boundary which was a nipa swamp, while the northern boundaries, according to the plan, are private lands of Julian Altibagos, Sia Sayoc, Ciriaco Pelligera and Monico Placenar. On the east, it is bounded by the Nabangig River, according to the title, Exhibit B, and by the sea and the Nabangig Creek, according to the plan; on the south, by a public forest, according to the title, and by public lands, according to the plan, and on the west, by uncultivated lands of the public domain, according to the title, and by the Palanas Creek and a forest, according to the plan.

It is unnecessary to state that the evidence relative to the identity of the land in this case is necessary not only for the confirmation of the applicant's title thereto but also for the validity of the agreement entered into by him and the private oppositors who, as prayed by them, would be entitled to the issuance to them of a title to their respective portions. Inasmuch as the land in question has not been identified with that described in the document, Exhibit B, by means of other evidence, said document is of no value and efficacy as evidence of title to said land. (Sison vs. Ramos, 13 Phil., 54; Belen vs. Belen, 13 Phil., 202; Villa Abrille vs. Banuelos, 20 Phil., 1; Roman Catholic Archbishop of Manila vs. Arnedo, 30 Phil., 593; and Licad and Vitug vs. Bacani, 51 Phil., 51.)

Wherefore, the appealed judgment is reversed, without prejudice to the applicant's renewing his application and the oppositors their respective oppositions, with the costs to the applicant. So ordered.

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

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