

DIMARUB KAMBAL, PETITIONER, VS. THE DIRECTOR OF LANDS AND THE COURT OF FIRST INSTANCE OF COTABATO, RESPONDENTS.*G.R. No. 43757. October 12, 1935*

Ponente: RECTO, J.

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This is a petition for relief under section 513 of the Code of Civil Procedure.

Petitioner claims to be the owner of two parcels of land known as lots Nos. 107 and 2289 of Cadastral Case No. 2, Record No. 296, of Nuling, Cotabato. On September 30, 1917, the Governor-General of the Philippine Islands issued Executive Order No. 72, reserving said parcels of land for market purposes and withdrawing them from sale or settlement, considering them to be of public domain. In accordance with the said Executive Order, and pursuant to the provisions of Act No. 627, registration proceeding was instituted in the Court of First Instance of Cotabato (Civil Reservation Expediente No. 10, G. L. R. O. Reservation Record No. 355), which resulted in a decision rendered by said court on February 20, 1919, whereby it was decreed that "It appearing from the records that all the requirements of law have been complied with in the present case, that all notices have been published and posted as required by law and that notwithstanding the lapse of more than nine months since the publication of said notices no applications have been presented for the registration of private lands within said reservation, the land included in Executive Order No. 72, dated September 30, 1917, is hereby declared to be public land."

No appeal was taken from said decision and the same became final. Thereafter, sometime in the year 1921, an application was filed in the Court of First Instance of Cotabato by the Director of Lands, in behalf of the Government of the Philippine Islands, for the compulsory registration under the Cadastral Act (No. 2259) of certain parcels of land situated in the Province of Cotabato, which included the two parcels now in question and also lot No 168. Petitioner failed to claim in said cadastral proceedings the parcels in question, and the Court of First Instance of Cotabato rendered a decision declaring lots Nos. 167 and 2289 (the same parcels of land described in Executive Order No. 72, series of 1917, and in the decision in the Civil Reservation Case) public land, and directing the register of deeds of Cotabato to cancel the former certificates of title and to issue in lieu thereof new certificates of title in accordance with the technical descriptions appearing in the cadastral plan. The petitioner now claims that the decisions rendered in the civil reservation case and in the cadastral proceedings came to his knowledge by accident on March 25, 1935 and in November, 1933, respectively, and that a petition for review in the cadastral case has been filed by petitioner in the lower court, which petition is still pending hearing and determination. Counsel for petitioner stated in the course of his oral argument that since 1918 a public market has existed in the lots in question; that petitioner has never paid real estate taxes on said properties; and that in the aforesaid cadastral proceedings petitioner appeared and claimed lot No. 168, but not the lots in question which adjoin said lot No. 168.

Under the facts above stated and disclosed by the petition, especially taking into account the lapse of sixteen years from the date of the decision was rendered in the civil reservation case to the filing of this petition, we are of the opinion and so hold that no relief can be granted the petitioner, as he has been guilty of laches. (Gonzales vs.

Director of Lands, 52 Phil., 895.) Moreover, this petition was filed out of time as the sixty days period prescribed in section 513 of the Code of Civil Procedure should be counted not from March 25, 1935 when petitioner alleges to have learned by accident of the decision rendered in the civil reservation case, but from November, 1933, when according to petitioner he also learned by accident that a decision was rendered in the cadastral proceedings whereby the lots in question were declared to be public lands. The reason for this ruling is obvious; in the cadastral decision mention was made of former certificates issued for the lots in question, which certificates the court directed the register of deeds to cancel, and to issue new ones in lieu thereof. This should have led the petitioner, had he exercised due diligence, to inquire why those former certificates were issued, which in turn would have led him to discover that civil reservation proceedings were had in connection with the lands in question pursuant to Executive Order No. 72, series of 1917. It has been held that knowledge of facts and circumstances which would put a person of ordinary prudence on inquiry is, in the eye of the law, equivalent to a knowledge of all the facts which would be disclosed on such inquiry; and, therefore, it has likewise been held that one having sufficient knowledge to lead him to a fact is deemed to be conversant therewith and chargeable with laches in failing to act thereon. (10 R. C. L., p. 406.)

Petition is therefore dismissed. No pronouncement as to costs.

Avanceña, C.J., Abad Santos, Hull, and Vickers, JJ., concur.

Petition dismissed.

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