

CRISPULO SIDECO, APPLICANT AND APPELLEE, VS. HEIRS OF SERAPIO BALAJADIA ET AL., OPPOSITORS AND APPELLANTS.

G.R. No. 44199. March 08, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Upon the application and evidence presented by the herein appellee, Crispulo Sideco, the Court of First Instance of Nueva Ecija rendered a decision adjudicating the registration in his name of a piece of land known as the Hacienda del Progreso, situated in the barrios of Mambangnan and Nieves formerly of the municipality of Gapan and now of San Leonardo, of the said province, segregating therefrom three portions which were respectively claimed by the oppositors Jose Giorla, Luis Gavino and the heirs of Maximo Garcia.

There was another opposition which was not sustained, but the oppositor Florentino Gavino did not appeal from the decision. Neither did the applicant appeal from the decision in so far as it sustained the oppositions of Jose Giorla, Luis Gavino and the heirs of Maximo Garcia. The only appeal before us is that presented by the heirs of Serapio Balajadia, heirs of Felix Garcia, heirs of Alejandro Torres, heirs of Pedro Wagan, heirs of Toribio Nagano, heirs of Mariano Nagano, heirs of Victor Garcia, heirs of Bosalio Lajom, heirs of Melchor Malang, heirs of Casimiro Ciriaco, heirs of Gervacio Aguilar, heirs of Jose Muyot, Mauricia Pineda, Miguela Amurao and Alejandro Balajadia, whose names appear in the amended opposition filed on February 24, 1934 by Attorneys Felipe Buencamino, Jr., Leonardo Gonzales and Leocadio Pineda, found at pages 40 to 45 of the bill of exceptions.

The applicant acquired the aforesaid Hacienda del Progreso, which is now divided into six big lots, by inheritance from his father Anastacio Sideco, and a small portion within the points 47, 48, 49, 50, 51 and 52 of lot No. 1 of the plan Exhibit C, from the spouses Juan Arevalo and Rosa Roberto. With the exception of the aforesaid portion purchased from the spouses Arevalo, the father and predecessor-in-interest of the applicant Anastacio Sideco acquired said Hacienda del Progreso by purchase from the Spanish Government on November 10, 1881, Exhibit A, the plan of which prepared by the Ayudante de Montes, Leon Vizcarra, on August 25, 1881, is Exhibit B. When the said plan was prepared, stone monuments were placed on the corners and sides indicating the boundaries of the aforesaid land, many of which monuments were found still in existence in the year 1932 by the surveyor, Placido H. Santos, when the latter, guided by the said monuments, made another survey of the aforesaid hacienda, preparing the plan Exhibit C accompanying the application. The difference in area between the 432 hectares, 77 ares and 12 centares shown by the old plan, Exhibit B, and the 465 hectares, 50 ares, and 24 centares appearing in the new one, Exhibit C, or an excess of 32 hectares, 73 ares and 12 centares, is easily explained by the fact that the apparatus and methods of surveying lands in use when the plan, Exhibit B, was prepared, did not have the perfection and precision of the apparatus and methods of modern surveying; but the identity of the land described in the title issued by the Spanish Government, Exhibit A, is sufficiently shown considering the configuration of the land in both plans and the location in 1932 of many of the stone monuments placed in 1880 on the corners and sides of the land, especially on the eastern boundary thereof, wherein are situated the 15—which

later became 16—lots claimed by the oppositors and which are shown in the plan Exhibit 1. Aside from the title sale issued in favor of the predecessor-in-interest of the applicant by the Spanish Government, the former held and cultivated the land described in said title as owner and publicly, from the year prior to the purchase until his death, Which took place in 1897, the applicant continuing the possession of his father, planting the land, as his predecessor-in-interest planted it, to rice through his tenants, having thereon a house, a well, a warehouse for the storage of rice and for the living quarters of the tenants, mango trees, bamboos, and other improvements.

The oppositors-appellants base their alleged ownership of the portions respectively claimed by them upon a supposed possession, more or less long, without any title or deed showing their right of ownership. They have tried to prove that, by themselves or through their tenants, they have cultivated the respective portions claimed, indicated in the plan Exhibit 1; but it is strange that, on an ocular inspection by the court, it was found that the embankments or pilapiles which, according to the oppositors, mark the dividing line between said portions and the hacienda, are of the same dimensions as those found in the part of the hacienda which is not in question, and many of them are a continuation of those of the hacienda; which shows that there is no such dividing line, and that the pretended possession of the oppositors was a part of the plan which had been elaborated when, confabulating among themselves with the aid of some tenants of the applicant because they were induced and threatened by the former, they agreed to oppose the applicant, each trying to appropriate for himself a portion of the hacienda situated on the western side of their respective lots, which portions are separated from said hacienda by means of bamboo fences.

The oppositor Miguel Garcia who claims a portion east of the applicant's land, presented Exhibit 3, the translation of which is Exhibit 3-A, alleging that it is the last will and testament of one, Felix Garcia, executed on June 19, 1865; but such will of itself is not an evidence of the right of ownership over any land. The tax declarations and receipts of payment of land tax presented by the oppositors, far from helping them, turn out to be evidence against what they wanted to establish, because they refer to certain lots or bacoors, and not to rice lands which are the ones claimed by the oppositors, and the said lots or bacoors are smaller in area than the said portions claimed.

Some oppositors have tried to establish that in 1880, when the plan Exhibit B was prepared by the Ayudante de Montes, Leon Vizcarra, some residents of the barrios of Mambangnan and Nieves of the municipality of Gapan had been confined by the guardia civil in certain garitas (bantayans); but there is nothing to show the persons who were confined, or the ground why they were detained by the guardia civil, or, if they opposed the survey of the land, why they did oppose it, or the portion or portions of land involved.

Where, as it happens in this case, the Spanish Government has legally issued a title by virtue of the sale of land, mere testimony uncorroborated by competent documentary evidence, and introduced for the purpose of establishing that there was opposition to the survey of an undetermined part of the land described in the title sale, Is absolutely devoid of weight and force to show that the land conveyed by the government to the purchaser was not public land.

In view of the conclusion reached by this court that the portions claimed by the oppositors-appellants form a part of the Hacienda del Progreso, belonging to the appellee, the indemnity for damages sought by virtue of the writ of injunction issued against them by the court to prevent them from interfering with the land of the applicant, is absolutely baseless and requires no further discussion.

The opposition of the appellants to the registration of the Hacienda del Progreso in favor of the applicant, on the ground that the latter had sold said hacienda to Margarita David and that he has only an option to purchase which does not constitute an interest registrable under the Torrens system, should also be overruled. The truth is that the applicant executed the sale of the aforesaid hacienda in favor of Margarita David Puatu on September 20, 1933,

Exhibit AA, and on the 25th of said month and year, Margarita David Puatu granted to the applicant the right to repurchase it, Exhibit AA-1. In point of fact, the two documents contain only one contract, that is, the sale with the right of repurchase, and under the provisions of Act No. 2164, amending section 19 of Act No. 496, the owner who executed the sale with a right of repurchase may file an application for registration, much more so in the present case inasmuch as the applicant continues in possession of the land, and we do not have before us any motion or notice by Margarita David Puatu that the period for repurchase has expired.

The appealed decision is affirmed, with the costs to the appellants. So ordered.

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

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