

**VICTORINA VILLARADA Y DIAZ, APPLICANT. VENANCIO ABANETA ET AL., PETITIONERS AND APPELLANTS, VS. COSME CARLOS, RESPONDENT AND APPELLEE.***G.R. No. 45412. April 29, 1939*

Ponente: LAUREL, J.

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This is an appeal from an order of the Court of First Instance of Bulacan, dated October 1, 1936, dismissing the petitioner-appellants' petition, dated September 11, 1936. The dispositive part of said order reads as follows:

"Proveyendo ahora a la peticion de autos, el Juzgado, con vista de la admision de los peticionarios de que la porcion de terreno hoy en cuestion es de dominio publico, es de opinion que dichos peticionarios carecen de personalidad legal para pedir en este expediente cualquier remedio positivo. La doctrina sentada en la causa de Arzobispo Catolico Romano de Manila contra Barrio de Sto. Cristo (39 Jur. Fil., 1), citada por los peticionarios no tiene aplicacion al caso de autos, puesto que los mismos no son donatarios del terreno hoy en cuestion.

"Por tanto, habiendo el Juzgado Ilegado a esta conclusion, se deniega la precitada peticion del abogado Sr. Juan S. Rustia de fecha 11 de septiembre de 1936, sin entrar en la discusion de si o no es nula y sin valor alguno la orden de este Juzgado de 13 de enero de 1932 por la alegada falta de nueva publicacion. Asi se ordena."

It appears that one Victorina Villarada Diaz on September 6, 1904, filed an application for registration of a piece of land situated in the barrio of Liputan, municipality of Meycauayan, Province of Bulacan, containing: an area of 16 hectares, 9 ares and 35 centares. After hearing, the land registration court by judgment of general default adjudicated the land to the applicant and ordered the issuance of decree No. 678 on September 8, 1905. The property was subsequently transferred and conveyed to Cosme Carlos, the respondent-appellee in this case, and transfer certificate of title No. 7990 was issued in his behalf. On January 5, 1932, Cosme Carlos presented a motion in the Court of First Instance of Bulacan, then Seventh Judicial District, praying<sup>1</sup> for the cancellation of his transfer certificate No. 7990 and the issuance of another in lieu thereof on the ground that the survey which was made on August 26, 1904 was erroneous. In support of said motion he attached a plan Psu-92377 prepared on December 14, 1931, by a private land surveyor which was duly approved by the Director of Lands on December 24, 1931. In the new plan, the area of the land is greater by 2 hectares, 77 ares and 76 centares. On January 8, 1932, the court issued an order setting said motion for hearing on January 13, 1932, and on this latter date said motion was granted by virtue of which transfer certificate of title No. 8205 was issued in favor of the appellee.

On September 16, 1935, or after the lapse of four years from the date of the order cancelling the transfer certificate of title No. 7990 and issuing transfer certificate of title No. 8205 in lieu thereof, the petitioner-appellants Venancio Araneta, Martin Rodela, Andres Villarico, Marciano Cristobal, Marciano Aranieto, Mateo A. Legaspi, Clemente Ramos, Fabian Eustacio, Estanislao Marcos, Feliciano Pasco, Hospicio Herrera, Alfredo Calixto and others, by their attorney, filed their "reclamacion y peticion" more or less reciting the above narrated facts and impugning the jurisdiction of the Court of First Instance of Bulacan to issue its order

of January 13, 1932, adjudicating to Carlos the additional portion of the land. On October 1, 1936, the court denied the petition on the ground of petitioner-appellants' lack of legal personality to solicit for any positive remedy in this case. Hence this appeal.

We are of the opinion that the order appealed from should be upheld. It is true that this is a land registration proceeding and that under section 34 of the Land Registration Act (No. 496) "any person claiming an interest, whether named in the notice or not, may appear and file an answer on or before the return day, or within such further time as may be allowed by the court", and that by the designation of "all whom it may concern" all persons are to be deemed defendants and that the consequent decree is binding and conclusive upon the whole world (Niblack, *An Analysis of the Torrens System of Conveying Land*, p. 82). But without discussing the limitations upon the principle contained in the aforesaid section 34 of the Land Registration Act at this time, it should be observed that on the hypothesis that the additional land registered in the name of Cosme Carlos is government land, the petitioners can have no legal interest therein or legal personality to represent the government (*Roxas vs. Cuevas*, 8 Phil., 496 et seq). Extraordinary cases may be imagined where a group of citizens may have vital and peculiar interests neglected or wantonly disregarded by the government as guardian of those interests where courts, in the exercise of their equity jurisdiction, will not deny a remedy, but we are not satisfied that this is one of those cases.

The order appealed from is affirmed, but as the meager record on hand seems to indicate that the registration of additional 2 hectares, 77 ares and 76 centares was made without the publication of notifications and advertisements required by sections 31 et seq. of the Land Registration Act, let a copy of this decision be furnished the Solicitor-General for such action as he may deem proper, without pronouncement regarding costs. So ordered.

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

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