

**TEODORICA ENDENCIA CUSAR, PETITIONER AND APPELLEE, VS.
THE INSULAR GOVERNMENT, RESPONDENT AND APPELLANT.***G.R. No. 4575. March 27, 1909*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4575/>**TORRES, J.:**

On the 7th of October, 1904, Teodorica Endencia, an unmarried woman of age, filed a petition with the Court of Land Registration requesting that a tract of land owned by her and situated in a place called Inipitan, town of Mangarem, Island of Mindoro, be registered in accordance with the Land Registration Act. The said property is bounded on the north by the Quidongnong Creek and certain public lands; on the east by the Caguray River; on the south by the land of Felix Lopez; and on the west by the lake of Sabangan. According to the plan accompanying her petition, it has an area of 4,525,359.98 square meters, and for the purposes of taxation was last assessed at \$2,000, United States currency. The property is free from all incumbrances, is unoccupied, and she acquired it by inheritance from her father, who in turn obtained it from his ancestors, and it is used for pasturing animals.

On the 6th of September, 1905, the petitioner presented a written amendment to her former petition, invoking the provisions of Chapter XI [VI] of Act No. 926, and asking that the prescription therein stated be applied in her case. On the 14th of March, 1906, the Attorney-General stated in writing that he appeared on behalf of the Director of Lands, and requested that he be notified of all future proceedings in the case.

On the 26th of March, 1906, the case was heard in Calapan, Province of Mindoro, the petitioner, her counsel, and the provincial fiscal representing the Insular Government being present. On the 10th of July of the same year another hearing was held in this city of Manila, but it does not appear that the Attorney-General and the Director of Lands were previously summoned, nor that the first-named officer was present thereat.

Judgment was rendered by the court below on the 30th of the said month of July, decreeing that the said tract of land be adjudicated and registered in favor of the applicant. The Attorney-General was notified of this decision on the following day, the 31st, and on the 13th of September of the same year, a certified copy of the decree with the plan of the estate was forwarded to the Director of Lands, who, on June 20, 1907, addressed an official communication to the Court of Land Registration, inclosing a copy of a true plan of said land that had been drawn up in his office, together with a technical description of the same.

For reasons that he gave the Attorney-General requested the lower court on the 27th of the said month and year to review the matter and order the case reopened in accordance with the provisions of section 38 of Act No. 496. He alleged that, upon an examination and survey of the land made by a surveyor of the Bureau of Lands, it appeared that the said land has an area of 1,248 hectares, 57 ares, and 78 centares, and not 452 hectares, 53 ares, and 59 centares as shown on the petition and plan which appear at the beginning of the record of the case, there being, therefore, an excess of 796 hectares, 4 ares and 19 centares; that the plan offered by the interested party as compared with that drawn up by the surveyor of the Bureau does not represent the topography of the place, nor

the actual extent of the land; it is seen that the fish pond of Mapaya is not in the center of the land; nor does the latter adjoin the Sabangan Bay, neither is there any resemblance between the rivers shown on both plans; that according to the report of the surveyor, part of the land is a mangrove swamp, the rest has never been under cultivation, and no cocoanut trees grow thereon as averred by certain witnesses for the applicant; that the Director of Lands had not been summoned to appear at the hearing in Manila on the 10th of July, 1906, so that the witnesses for the applicant have not been cross-examined by any official from the Attorney-General's Office; that the decree ordering the registration of the said land was obtained by means of fraud, because the plan offered at the trial was a fictitious one, and the witnesses of the applicant did not testify to the truth; and that for said reason the Insular Government was unlawfully deprived of its ownership of the land adjudicated to the applicant.

In view of the above the court below entered an order on the 9th of August, 1907, overruling the foregoing motion of the Attorney-General and directing that title be issued in favor of the applicant in accordance with the approved plan. The Attorney-General excepted to this decision and presented a bill of exceptions for the purpose of having this court review the order alluded to, and on the 10th of February, 1908, the bill of exceptions, together with the amendment allowed on the 6th day of the said month of February, were approved by the trial judge.

This appeal was filed against the order dated August 9, 1907, approving the plan prepared by the surveyor of the Bureau of Lands, and denying the motion of the Attorney-General, in which he moved for a review of the case and the judgment, for a reopening of the case under the provisions of section 38 of Act No. 496, and also for a revision of the order granting title to the applicant on the basis of the plan approved by the court.

The above motion of the Attorney-General on behalf of the Director of Lands is based on that the final decree ordering the registration of the land of the applicant was obtained by means of fraud, for the reasons alleged in his above-mentioned writing, and that the Director of Lands received no notice of the hearing that was held on the 10th of July, 1906, in this city of Manila. Thus the witnesses of the petitioner have not been cross-examined by any official from the Attorney-General's Office.

After an examination of: the documents and plan submitted by the applicant, and of the result of the evidence given by the witnesses introduced by her, and after considering the merits of the case, it can not be held that the said applicant acted fraudulently and in bad faith. The proceedings do not show that the decree ordering the registration of the land in question was obtained by means of fraud or deceit, and that the provisions of section 38 of Act No. 496 are properly applicable.

The failure to cite the Director of Lands to appear, or his absence at the hearing that took place on the 10th of July, 1906, can not be charged to the applicant; and if there was an error in the decision that was rendered without taking into account this defect, the only adequate remedy by which it might have been corrected was an appeal; none was interposed, so that, as the decision has become final, there is no way of lawfully annulling it.

As to the fraud charged in obtaining the decree, the fact that, upon a survey by the Government surveyor, the land of the petitioner proved to be more than one-half larger than the area that she had stated, as appears from the plan drawn up for that end, while the interested party only claims the possession and registration of much less than one-half of the area stated by the said surveyor, this does not prove that the applicant acted in bad faith and by means of fraud; there is, therefore, no legal reason to support the revision asked for.

In view of the discrepancy between the plans, and of the fact that according to the plan drawn up by the Government surveyor the land sought to be registered is larger than as shown by the plan of the applicant, the court below should have proceeded to make an investigation, without approving the second plan. It is not proper to adjudicate to the applicant more land than she possesses and endeavors to enter in the registry.

Therefore, in order to avoid prejudice to the interest of the Government, and in view of the provisions of section 66 of Act No. 926, it is our opinion that the order of the 9th of August, 1907, should be revoked in so far as it approves the new plan drawn up by the Government surveyor, and provides that title be issued to the applicant in accordance with the said plan; otherwise, the said order is hereby affirmed. Let the case be remanded to the Court of Land Registration for a due investigation and determination of the situation, area, and boundaries of the land that the applicant seeks to register under the plan and documents presented by her, with the correction of such errors as her plan may contain, and let a proper decision be entered in due course in accordance with the law. So ordered.

Arellano, C. J., Mapa, Johnson, and Willard, JJ., concur,
Carson, J., dissents.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.