

**CRISANTO LICHAUCO ET AL., APPLICANTS. HEIRS OF
CRISANTO.LICHAUCO, ASUNCION NABLE JOSE AND AMPARO NABLE
JOSE, PETITIONERS AND APPELLEES, VS. THE DIRECTOR OF LANDS
ET AL., OPPOSIT...**

G.R. No. 46347. June 21, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is an appeal by the Director of Lands and others, oppositors in the present registration proceedings, from an order dated March 14, 1938, of the Court of First Instance of Pangasinan, granting applicants' petition of August 7, 1934, praying (1) that the amended plan Psu-17590-Amd. be approved, (2) that proper correction in the technical description in Original Certificate of Title No. 7 be ordered to conform to said amended plan and its technical description, and (3) that an order be entered directing the Register of Deeds of Pangasinan to cancel said Original Certificate of Title No. 7 and to issue, in lieu thereof, a new certificate of title in accordance with the said amended plan and technical description.

The antecedent facts are stated in the following stipulation of facts:

"STIPULATION OF FACTS

"Come now the parties in the above-entitled case, represented by their respective undersigned attorneys, and enter into the following stipulation of facts:

"1. That on January 20, 1903, Crisanto Lichauco, Salud Nable Jose, Amparo Nable Jose, and Asuncion Nable Jose filed an application for the registration of the hacienda 'El Porvenir' situated in the municipalities of Tayug, Natividad, San Quintin, and Santa Maria, Province of Pangasinan. Oppositions were filed by 150 individuals and by the Attorney-General on behalf of the Insular Government. After hearing, decision was rendered on May 1, 1905, which was appealed to, and confirmed by, the Supreme Court in its decision of May 5, 1906, copy of which appears on folios 257-259, Pieza No. 4, granting the adjudication and registration of the hacienda 'El Porvenir' in favor of Crisanto Lichauco and the three sisters Salud, Amparo and Asuncion Nable Jose, in the proportion of a pro-indiviso one-half interest for the first and the remaining pro-indiviso half for the last three, a copy of which decision marked Exhibit A-2 is attached hereto and made a part hereof. After the Supreme Court promulgated its decision, the corresponding decree No. 1178 was issued, a copy of which decree marked Exhibit A-3 is attached hereto and made a part of this stipulation. Salud Nable Jose died during the pendency of the registration proceedings 1903-5, and all her rights, interest and participation to the hacienda 'El Porvenir' were inherited by her sisters Amparo and Asuncion Nable Jose.

"2. In accordance with decree No. 1178, Original Certificate of Title No. 7 of the land records of Pangasinan was issued in favor of Crjsanto Lichauco and the sisters Salud, Amparo, and Asuncion Nable Jose in the proportion above mentioned.

"3. That decree No. 1178 and Original Certificate of Title No. 7 were both based on a plan prepared by the

ingeniero de Montes Mr. Aurelio Diaz Rocafull in February, 1886, a copy of which plan is attached to the record, Pieza No. 1, folio 5, and on the corresponding technical description, a copy of which is also attached to the record, Pieza No. 2, folios 217-221, inclusive. For the convenience of the Court a certified copy of said technical description is attached hereto marked Exhibit A-I and made a part hereof.

"4. That on October 18, 1912, the then Director of Lands, Mr. C. H. Sleeper, filed with the then Court of Land Registration a petition wherein, for the reason that—

" 'The properties in the above-mentioned cases have not been platted thereon, as it is impossible to properly locate them from the tie lines, and the descriptions and surveys hereof are of doubtful accuracy in many instances. A large number of property surveys are being executed in this province and continual corrections are required after the completion of the surveys in order to secure agreement with those previously decreed properties.

" 'It is therefore proposed to execute new tie line surveys and boundary surveys of these properties without cost to the owners, in order that future conflicts of this nature may be avoided. For this purpose it is necessary that the holders of the certificates of title be required to point out to the surveyor on the ground their actual boundaries.

" 'It is therefore requested that this office be furnished a list of the names and addresses of each of the owners of these properties, and that the court issue an order directing that said owners point out to the surveyor on the ground the true limit of their properties as claimed and occupied, and further, that they be advised that accurate plans and descriptions and a new certificate of title will be furnished them without cost, for the purpose of clearing up the doubt as to the proper boundaries'

it was prayed that an order be entered ordering the new survey of the properties and that a new certificate of title be issued in conformity with the new survey. This petition of Director Sleeper appears in the record of this case, Pieza No. 4, folios 295-296 and for the convenience of the Court a certified copy of the said petition marked Exhibit B is attached hereto and made a part of this stipulation.

Acting on the said petition, the then Court of Land Registration promulgated an order, dated November 12, 1912, granting the petition. This order appears in the record of this case, Pieza 4, folios 297-298, and for the convenience of the Court a certified copy thereof marked Exhibit C is attached hereto and made a part hereof.

"5. That on September 9, 1918, Crisanto Lichauco, Asuncion Nable Jose and Amparo Nable Jose, through their counsel, filed a motion praying that the order of November 12, 1912, of the then Court of Land Registration be amended in such a manner that the same should provide that the proposed new survey of the land covered by Original Certificate of Title No. 7 as requested by the Director of Lands in his petition of October 18, 1912, be made by any authorized private surveyor at the expense of the owners, instead of by public land surveyors. This motion appears in the record, Pieza 4, folios 304-305, and for the convenience of the Court a certified copy of said motion marked Exhibit D is attached hereto and made a part hereof.

"6. That the petition in said motion Exhibit D having been granted by this Honorable Court, the deceased Crisanto Lichauco, Asuncion Nable Jose and Amparo Nable Jose caused a new survey of the hacienda 'El Porvenir' by private surveyor Zoilo Garcia, who from October 25, 1918 to July 4, 1919, made the new survey and as a result thereof prepared plan Psu-17590 and its corresponding technical description. Said plan Psu-17590 and its technical description appear in the record of this case, Pieza 4, folios 307 and 308-345, respectively, and a certified copy of the plan appears in the record, Pieza 5, folio 647 Both the certified copy of plan Psu-17590 and its technical description attached to the record are hereby made by reference parts of this stipulation as Exhibits E and F, respectively.

"7. That on October 31, 1922, the executrix of the testamentary estate of Crisanto Lichauco filed a motion asking for the cancellation of the titles issued for the hacienda 'El Porvenir' and the issuance of a new one for

the said hacienda one-half in favor of the testamentary estate of Crisanto Lichauco and the remaining half to Amparo Nable Jose and Asuncion Nable Jose, in accordance with the new plan prepared by Zoilo Garcia and the technical description, with the exception of lots Nos. 9 and 10 thereof. This motion appears in the record, Pieza 4, folios 306, 306-A, 306-B. A simple copy of the said motion marked Exhibit F-1 is hereto attached and made a part hereof for the convenience of the Court.

"8. That on November 24, 1922, this Court issued an auto granting the said motion, subject, however, to the approval by the General Land Registration Office of the plan prepared by Zoilo Garcia and its technical description, said auto being found in Pieza 4, folios 355-357. A simple copy of said auto marked Exhibit F-2 is hereto attached and made a part hereof for the convenience of the Court.

"9. That on December 6, 1922, in a communication to this Honorable Court, the Chief Surveyor of the General Land Registration Office pointed out certain corrections to be made on plan Psu-17590 which communication appears in the record, Pieza 4, folios 359-360, and for the convenience of the Court a certified copy of same marked Exhibit G is attached hereto and made a part hereof.

"10. That on December 20, 1922, this Honorable Court, acting on the said recommendation of the Chief Surveyor of the General Land Registration Office, entered an order requiring the applicants to have plan Psu-17590 amended in such a manner as to conform with the recommendation of the Chief Surveyor of the General Land Registration Office. This order appears in the record, Pieza 4, folios 364-365, and for the convenience of the court a certified copy thereof marked Exhibit H is attached hereto and made a part of this stipulation.

"11. That in compliance with said order of this Honorable Court, plan Psu-17590 was amended by the Bureau of Lands as shown in the report dated February 3, 1923, of the Director of Lands to the Chief of the Land Registration Office. This report of February 3, 1923, appears in the record, Pieza 4, folios 369-371, and for the convenience of the Court a certified copy thereof marked Exhibit I is hereto attached and made a part hereof.

"12. That on February 21, 1923, the Chief Surveyor of the General Land Registration Office recommended to this Honorable Court the approval of plan Psu-17590 as amended by the Bureau of Lands and the issuance of a new certificate of title in accordance therewith. This recommendation appears in the record, Pieza 4, folio 368, and a certified copy hereof marked Exhibit J is hereto attached and made a part hereof.

"13. Acting on the said recommendation of the General Land Registration Office, this Honorable Court issued an auto, dated March 1, 1923, approving plan Psu-17590 as amended by the Bureau of Lands, cancelling all certificates of title previously issued and ordering the Register of Deeds of Pangasinan to issue a new certificate of title in favor of Amparo Nable Jose with respect to one-half pro-indiviso interest in the hacienda 'El Porvenir' and in favor of the testamentary estate of the deceased Crisanto Lichauco with respect to the remaining one-half pro-indiviso interest in accordance with plan Psu-17590-Amd. and its technical description. This auto appears in the record, Pieza 4, folios 373-374, and a copy thereof marked Exhibit EC is attached hereto and made a part hereof. Pursuant to said auto, Original Certificate of Title No. 7, and other certificates of title based on the Rocafull plan were cancelled and a new one, to wit, Transfer Certificate of Title No. 1776, issued in favor of Amparo Nable Jose and Asuncion Jose and the testamentary estate of Crisanto Lichauco in the proportion stated in the auto of March 1, 1923.

"14. After the issuance of Transfer Certificate of Title No. 1776, a partition agreement of the hacienda 'El Porvenir' was entered into between Amparo Nable Jose and Asuncion Nable Jose on the one hand, and the testamentary estate of the deceased Crisanto Lichauco on the other, whereby it was agreed that to the former shall be adjudicated lots Nos. 1, 4, 5, 6 and 8 of plan Psu-17590-Amd., and to the latter, lots Nos. 2, 3 and 7 of the same plan. By virtue of the said partition, Transfer Certificate of Title No. 1776 was cancelled and two new certificates of title were issued on August 17, 1923, to wit, Transfer Certificate of Title No. 1788 in the name of Amparo Nable Jose and Asuncion Nable Jose covering the lots adjudicated to them, and Transfer Certificate of Title No. 1889 in favor of the testamentary estate of Crisanto Lichauco covering the lots corresponding to the

said estate. On September 19, 1926, Transfer Certificate of Title No. 1789 in the name of the testamentary estate of Crisanto Lichauco was cancelled and superseded by Transfer Certificate of Title No. 4109 in the names of the heirs of the deceased Crisanto Lichauco, namely, Maria Perez Vda. de Lichauco, Maria, Macario, Amanda, Manuel, Mariano, and Renato, all surnamed Lichauco y Perez.

"15. On February 15, 1932, Cayetano Corpuz and 69 other individuals filed a motion appearing in folios 439-445, Pieza No. 4, praying for the reasons therein alleged, to declare null and void the orders of November 24, and December 20, 1922, and March 1, 1923, amending the original plan, approving the subdivision plan Psu-17590-Amd. and the issuance of the corresponding certificates of title and asking for the cancellation of those transfer certificates and the amendment of the original plan so as to conform with plan SWO-9497.

"16. That on June 30, 1932, Cayetano Corpuz et al., amended their motion, and in paragraph V of this amended motion it was alleged that there was no publication of the amended plan and its technical description as well as of the motion asking for their approval. (See folios 465-470, Pieza No. 4.)

"17. After the filing of the answers of Amparo Nable Jose, Asuncion Nable Jose and the heirs of Crisanto Lichauco to the amended motion of Cayetano Corpuz, et al., and after oral argument without the presentation of any evidence, this Honorable Court rendered its resolution dated January 11, 1933 appearing in folios 485-492, Pieza No. 5, the dispositive part of which is as follows:

" 'En virtud de todo lo expuesto, se declaran nulos los autos de este Juzgado de fechas 24 de noviembre y 20 de diciembre de 1922 y 1.º de marzo de 1923; se ordena al Registrador de Titulos de la Provincia de Pangasinan que cancele todos los certificados de titulo expedidos a favor de los solicitantes y sus sucesores con motivo del auto de este Juzgado de fecha 1.º de marzo de 1923 y los que se hubiere expedido con posterioridad; que requiere de los solicitantes, sus sucesores y demas personas que tengan en su poder dichos certificados de titulo la entrega de los mismos para dicho efecto y que expida a favor de los solicitantes y sus Bucesores otros certificados basados en la descripcion tecnica del piano originalmente sometido en este expediente; y se ordena, por ultimo, a los solicitantes, sus sucesores y demas personas que tengan en su poder los mencionados certificados de titulo, que los entreguen al Registrador de Titulos de la Provincia de Pangasinan para su cancelacion.' From the above resolution Amparo Nable Jose, Asuncion Nable Jose and the heirs of Crisanto Lichauco appealed to the Supreme Court, and on June 29, 1934, the latter Court promulgated its decision appearing in folios 502-508, Pieza No. 5, affirming the resolution of this Honorable Court dated January 11, 1933.

"18. Subsequently, on August 7, 1934, the petition subject-matter of the present incident was filed by the heirs of Crisanto Lichauco, Asuncion Nable Jose and Amparo Nable Jose.

"19. The parties hereto reserve their right to present evidence on points not covered by this stipulation. "Wherefore, the applicants and the oppositors, represented by their respective undersigned attorneys, respectfully pray the court to consider the above stipulation of facts in rendering judgment in the above-entitled case.

"Tayug, Pangasinan, July 8, 1937.

RAMOS & RAMOS

RHEBERG, SANCHEZ & BAGASA

By (Sgd.) ANGEL SANCHEZ,

Attys. for the heirs of Crisanto Lichauco

(Sgd.) PIO M. FAJARDO

Provincial Fiscal of Pangasinan for the Director of Lands

GEMINIANO PINEDA

CONSTANTINO GULOY

CIPRIANO ALLAS

By (Sgd.) CONSTANTINO M. GULOY

Attorneys for Eugenia Obra et al.

SUMULONG, LAVIDES AND SUMULONG

By (Sgd.) LORENZO SUMULONG

Attorneys for Amparo and Asuncion Nable Jose

CRISPIN A. FERNANDEZ

RUPISAN & RAMIREZ

ENRIQUE RIMANDO

By (Sgd.) E. RIMANDO

Attorneys for the heirs of Cayetano Corpus et al.

(Sgd.) SULPICIO R. SORIANO

Attorney for Abundio P. Vidal et al

(Sgd.) TOMAS B. TADEO Attorney for Esteban Licos et al."

To the petition of the appellees of August 7, 1934, adverted in the beginning of this opinion and referred to in paragraph 18 of the foregoing stipulation of facts, the Director of Lands, represented by the Provincial Fiscal of Pangasinan, entered on December 8, 1934, an opposition on the following grounds: (1) that the Garcia plan (plan Psu17590 as amended) includes land belonging to the public domain which is covered by the free patent applications of VOLUME 70. 79 about 70 individuals; (2) that the petitioners are estopped from disputing the accuracy of the Rocafull plan and its technical description; (3) that the decision of this Supreme Court in Lichauco v. Heirs of Corpuz constitutes res judicata in the present proceedings; and (4) that the petition is in attempt to reopen the decree issued on May 1, 1905, and therefore could not be considered by the court for lack of jurisdiction(Bill of Exceptions, pp. 67-70.) Seventy Tee patent applicants likewise joined as oppositors.

On December 15, 1934, the Director of Lands moved for the dismissal of the petition on the ground that the court was without jurisdiction. Petitioners filed their answer, alleging that the purpose of their petition was simply "to correct errors in the courses, distances, and area of the magnetic plan of Kocafull and its technical description, and to have a new plan drawn up meeting the requirements of Act No. 1875." The hearing was set for January 28, 1935. Three days previous to this date, the private oppositors filed a motion for dismissal on practically the same grounds relied upon by the Director of Lands. On February 11, 1935, the court below issued an order denying the motions for dismissal, and setting the hearing on the merits for March 19, 1935. After several incidents and postponements during which three other motions for dismissal were presented and denied by the lower court. The parties having agreed on the basic facts and having submitted their respective memoranda, the lower court, on March 14, 1938, granted the petition in the order now appealed from, the dispositive part of which reads:

"Wherefore, the petition of the applicants and petitioners dated August 7, 1934, is hereby granted; and said amended plan Psu-17590-Amd. and its accompanying technical description are hereby approved. The Register

of Deeds of Pangasinan is hereby ordered to cancel Original Certificate of Title No. 7 and to issue, in lieu thereof, two Transfer Certificates of Title, in accordance with said amended plan and technical description in the names of the petitioners is follows: lots Nos. 1, 4, 5, 6 and 8 of the said amended plan in the names of Asuncion Nable Jose and Amparo Nable Jose, as shown in the plan SWO-8430, with their respective personal circumstances appearing in Transfer Certificate of Title No. 1788 which was heretofore cancelled; and Lots Nos. 2, 3 and 7 of the same amended plan in the names of the heirs of the deceased Crisanto Lichauco with their respective personal circumstances appearing in Transfer Certificate of Title No. 4109 which was heretofore also cancelled with a mortgaged lien in favor of the Philippine National Bank in the sum of P71,607 with interest thereon at the rate of 7 per cent per annum.

"So ordered."

The Director of Lands and the free patent applicants have interposed this appeal. In seeking a reversal of the appealed order, the Director of Lands makes the following assignment of errors:

"1. The trial court erred in granting the petition and in denying the motion for a new trial of the oppositors.

"2. The trial court erred in not holding that the decision of the Honorable Supreme Court in G. R. No. 39512 constitutes *res adjudicata* in the present proceeding."

Counsel for the private oppositors likewise attribute the following errors to the trial court:

"1. The lower court erred in holding that it had jurisdiction in the resolution of the petition.

"2. The lower court erred in admitting and accepting that the plan Psu-17590-Amd. covers the same land, especially to area, as that of the Rocaf ull plan embodied and described in Original Certificate of Title No. 7.

"3. The lower court erred in granting the petition approving plan Psu-17590-Amd. and its technical description and ordering the Register of Deeds of Pangasinan to cancel Original Certificate of Title No. 7, and to issue in lieu thereof, two Transfer Certificates of Title in accordance with said plan Psu-17590-Amd. and its technical description."

Considered in conjunction, it is quite plain that they all converge on the following legal propositions: (1) Whether the lower court had jurisdiction to entertain and grant the petition of August 7, 1934; and (2) whether the decision of this Court in *Lichauco v. Heirs of Corpuz* (60 Phil. 211) is *res adjudicata* in the present proceedings.

The hacienda "El Porvenir" was the subject of registration proceedings commenced by the herein petitioners-appellees on January 20, 1903. The decision of the court below adjudicating registration in the - name of the applicants was confirmed by this Court on May 5, 1906, and one year from the date this judgment became final, the decree of registration became absolute and incontrovertible for all the purposes of the law. (*Apurado v. Apurado*, 26 Phil. 581; *Legarda & Prieto v. Saleeby*, 31 Phil. 591, 596; *Mariano Velasco & Co. v. Gochuico & Co.*, 33 Phil. 364, 367; *Bias v. De la Cruz & Melendres*, 37 Phil. 1; *Calimbas v. Paguio*, 46 Phil. 566, 571; *Rivera v. Moran*, 48 Phil. 836, 840; *Sugayan v. Solis and Paredes*, 56 Phil. 279; and *Yumul v. Rivera & Dizon*, 35 O. G. 1538.) No reopening or review of this final decree of registration may then be allowed, except in accordance with the provisions of Sections 38 and 112 of Act No. 496 as amended.

Pertinent portion of section 38 reads:

"Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons including the Insular Government and all branches thereof. Such decree shall not be opened by reason of absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration

obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible."

Section 112 recites:

"No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum hereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent or expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; * * * Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent." (Italics ours.)

It is evident from the above-quoted provisions that when a decree of registration is once made under the Torrens system, and the time has elapsed within which it may be contested, as in this case, the same becomes perfect, conclusive, and irrevocable (*Reyes et al. v. Judge Borbon et al.*, 50 Phil. 591), and may no longer be reopened.

Appellees, however, maintain that in their petition, they did not ask for a reopening of the original decree, but merely prayed for the correction of an error of closure in the technical description of Original Certificate of Title No. 7, and simultaneously, the approval of Plan Psu-17590 as amended. It is contended that Plan Psu-17590-Amd. is an accurate relocation and reproduction of the Rocafull plan upon which the original decree was based.

Section 112 recognizes and permits the correction of an error of closure, "provided such correction does not include lands not included in the original petition." (*Roxas vs. Enriquez*, 29 Phil., 63.) Otherwise, the doctrine of the conclusiveness and legal indefeasibility of a Torrens title would be a meaningless verbiage. It is admitted by the appellees in their brief that a variance in the total area exists between the Garcia plan and the Rocafull plan. (Brief for Appellees, Attys. for the Heirs of Lichauco, p. 23; pp. 167-169, 175-176, 178-180, and p. 881, t. s. n.) In the Rocafull survey the area given is 2,705 hectares, 68 ares and 49 centares, whereas in the Garcia survey Plan Psu-17590 (Exhibit E-I) the area given is 2,997 hectares, 48 ares and 56 centares, or a difference of 291 hectares, 80 ares, and 70 centares in favor of the appellees (*Lichauco v. Heirs of Cayetano Corpuz*, G. R. No. 39512). The court below in its decision admits the existence of a discrepancy. (Decision, pp. 261-262, Bill of Exceptions.)

We are of the opinion that, even if there really existed an error of closure as claimed, the court below was without authority to entertain, much less grant, the petition of August 7, 1934. The approval of Plan Psu-17590 as amended would authorize not only the inclusion of land of the public domain which some seventy free patent applicants have been authorized to occupy but also a reopening of a decree of registration long closed and settled. It is well settled that after the issuance of the decree of registration of a land upon which a judgment has become final, no error can be corrected any longer regarding the area of the land. (*Manlapas & Tolentino v. Llorente*, 48 Phil., 298.) It seems clear, therefore, that what the lower court has attempted, and in fact accomplished, was not the correction of an error of closure, but a re-trial of the case and the subsequent approval of an entirely new decree of registration. This is not permissible.

In an effort to exhibit authority in the lower court to take cognizance of, and grant their petition, counsel for the heirs of Lichauco cites section 58 of Act No. 496 as amended. Said section 58, while empowering the court to hear and receive evidence on the question of discrepancy between an original plan and a subdivision plan subsequently drafted, does not permit the reopening of an original decree of registration. Considering that the subdivision plan prepared by Zoilo Garcia comprises land not part of the Rocafull survey, the lower court acted without or in manifest excess of its legal jurisdiction.

Again, it is urged by the appellees that "when the boundaries are certain and no alteration thereof has been proven, the area included within such boundaries shall prevail over that which the title shows." (Government of P. I. v. Abaja, 52 Phil. 261.) The doctrine finds no application in the instant case because, as aptly reasoned by the oppositors, "the land in dispute is not entirely surrounded by natural boundaries and the brick monuments alleged to constitute landmarks have been proved to be located at places far distant from the corners where they should be according to the Rocafull plan and survey-" (Brief for the Appellants, pp. 25-26.) It should be observed that no mention is made in the original application of brick monuments delimiting the area of the hacienda "El Porvenir." Furthermore, it was factually exhibited that the surrounding territory was public land.

Appellees tried to explain that the difference in area noted above was due to the use by Rocafull of the antiquated *brujula* and the graphic method of computation. They called several witnesses to prove the existence of the brick monuments used by Garcia from Spanish times, and the limits of estate, (pp. 369-382, t. s. n.) They also attempted to show that the Sionil survey and plan is replete with anomalies and inconsistencies, and that the verification survey conducted by Surveyor Arcellana in 1930 agreed more with the Garcia plan than the Sionil plan. (pp. 120-121, 133, Brief of Petitioners-Appellees.) In contrast, oppositors emphasized the variance in area (p. 881, t. s. n., pp. 14-15, Brief for Appellants, vide also *Lichauco v. Heirs of Corpus*, supra) ; the discrepancy in the number of corners and lines, resulting in the changed configuration and the location in the Garcia plan of the corners in places far distant from the original positions indicated in the Rocafull survey (p. 13, Brief for Appellants); the testimony of District Land Surveyor Mamerto Jacinto as to the difference in the bearings and distances of the two plans (pp. 1261-1262, t. s. n.) ; and finally the complete disregard which Garcia entertained for the technical descriptions of the Rocafull plan.

It is essential to bear in mind that the two plans were supposed to be the product of a relocation survey. As should properly be, a relocation survey should follow the old corners used in the former survey in order to approach the same area and configuration. This, we believe, was what Sionil actually did, and it accounts for the close similarity between his plan and Rocafull's and the comparative distinction between the latter and the Garcia plan.

The second question is whether the decision of this Court in *Lichauco v. Heirs of Corpuz*, supra, is *res judicata* in these proceedings. While there may be merit in this contention of the appellants, we do not consider it necessary to pass upon this point, in view of the conclusion reached with reference to the first proposition.

Accordingly, the order appealed from is hereby reversed and the petition of the appellees of August 7, 1934, dismissed, with costs against the petitioners and appellees.

So ordered.

Avanceña, C.J., Imperial, Diaz, and Concepcion, JJ., concur.

Order reversed.

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