

ANTONINO SALOMON ET AL., APPLICANTS AND APPELLEES, VS. SEVEEA BOCAUTO ET AL., MOVANTS AND APPELLANTS.*G.R. No. 47900. March 15, 1941*

Ponente: LAUREL, J.

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On March 23, 1937, in the Court of First Instance of Pangasinan, Antonino Salomon, Monica Reyes, Teodora Casiquen and the latter's children, Generosa, Dionaldon, Federico, Jose, Matusalina, Emilio, Quiterio, Josefina, Consolacion and Virginia, all surnamed Conde, applied for the registration in their names of the land described in plan Psu-100925, then in the actual possession of Bonifacio Redon and Florencia Redon. The cause was forthwith docketed as case No. 16256. Bonifacio Redon and Florencia Redon did not appear to contest the application notwithstanding the notices sent them; instead, Policarpio Tamoro, in whose favor Bonifacio Redon testified as a witness, entered an opposition and presented his claim in due form. On January 26, 1939, the Court of First Instance of Pangasinan rendered its decision overruling the opposition and adjudicating the land in favor of the applicants. Shortly thereafter, Leoncio (Florencia) Redon filed a petition for review under section 38 of Act No. 496 which was later amended to include Severa Bocauto as one of the petitioners. On July 17, 1939, upon the written objection of the herein applicants-appellees, the lower court denied the petition for review. Holding this procedure highly irregular, the petitioners have interposed this appeal.

Under section 38 of Act No. 496, the petitioner must show affirmatively that (1) he has an interest or estate in the land, and (2) he has been deprived of that interest through fraud in the procurement of the decree of registration.

These essential facts are to be clearly alleged in the petition; otherwise, the registration court is justified in dismissing the same. (*Guzman vs. Ortiz*, 12 Phil., 701; *Cusar vs. Insular Government*, 13 Phil., 319; *Apurado vs. Apurado*, 26 Phil., 586; and *Escudero & Marasigan vs. Esguerra*, 48 Phil., 511.) In the present case, the appellants Bocauto and Redon pretend to derive their claim from Mariano Redon, the original owner. The lower court, however, in its decision dated January 26, 1939, appears to have rejected this claim and found that Mariano Redon had sold the said land to Bonifacio Redon, who, in turn, conveyed it to Policarpio Tamoro. Moreover, both petitioners had notice of the original registration proceedings, but failed to put up any claim and to show title in themselves.

The judgment of the lower court is hereby affirmed, with costs against the appellants. So ordered.

Imperial, Diaz, Moron, and Horrilleno, JJ., concur.

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