# CARLOS N. FRANCISCO AND CEFERINO FRANCISCO, MOVANTS-APPELLANTA, VS. JOSE BORJA, OPPOSITOR-APPELLEE.

*G.R. No. 48390. May 14, 1942*

Ponente: PARAS, J.

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**PARAS, J.:**

In G. L. R. O. Record No. 917 a petition was filed by Carlos N. Francisco and Ceferino Francisco praying that a new plan covering certain parcels of land, titles to which had been decreed before by the court, be approved and that new certificates be issued in favor of the said petitioners.

Jose de Borja objected to the petition on the ground that some of the lots mentioned therein form an integral part of his land covered by Transfer Certificate of Title No. 12377, but according to the evidence and the findings of the lower court his claim is utterly unfounded because the said lots are outside of the limits covered by the title in his name. The said court, however, denied the petition on two grounds—First, that it has no jurisdiction to act thereon as the title to the land had been decreed long before by the court and, second, that Exhibit A, the deed of transfer from the former owner to the petitioner is not competent evidence to show any title in favor of the latter.

It appears that the old title was based on a plan which was never approved by the Bureau of Lands, the survey not having been made under the modern system which is more scientific. When the land covered by the old title was resurveyed and .subdivided into lots, the total area in the new plan did not tally with that contained in the old one. However, the boundaries remained the same. As regards lots Nos. 4-A and 6 of Plan Exhibit F, it appears that either through omission or error they were not included in the subdivisions although as a matter of fact they were within the boundaries of the whole land covered by the old certificate of title. The correction of this omission is now sought in the petition.

There is absolutely no valid reason why the court should deny the approval of the new plan and the consequent issuance of a new certificate of title corresponding thereto as recommended by the Chief of the General Land Registration Office. No right of a third party is affected. There is no change in the identity of the land. When surveys under the old system are not correct and differ from the result obtained by the modern and more scientific way of surveying, corrections of errors contained in the old plan should be permitted by the court so long as the boundaries laid down in the description as enclosing the land and indicating its limits are not changed. If they are not allowed in the expediente of the case, no other remedy may be resorted to by which errors or imperfections in the old plan can be cured and to permit a decree based on such erroneous survey to stand would be absurd. The decree is not reopened and thereby modified. It is the new plan that is made to conform to the decree, which procedure should be allowed and even encouraged in these Islands where, as court records show, many certificates of title are still based on the old and highly defective surveys. Such correction is authorized by section 112 of Act No. 496.

In regard to Exhibit A, suffice it to state that it is a public document whereby the conveyance of the property (Lot No. 6) is duly confirmed by the legal representatives of the former owner, the Compañia Agricola de Ultramar. As



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stated above, the oppositor has not shown any right or interest in the lots covered by the new plan. His objection to the admission of the document as evidence should therefore be overruled. Wherefore, the decision appealed from is reversed and the remedy prayed for in the petition is hereby granted, with costs against appellee.

Yulo C. J, Ozaeta, Moran, and Bocobo, JJ., concur.


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