

**JUAN MAGBANUA AND FELICISIMA PINEDA, PETITIONERS, VS.
ARSENIO DIZON, JUDGE OF FIRST INSTANCE OF ILOILO, AND THE
DIRECTORS OF LANDS AND FORESTRY, RESPONDENTS.**

G.R. No. 48463. July 10, 1942

Ponente: OZAETA, J.

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OZAETA, J.:

This is an original petition for certiorari to annul the following order entered by the respondent judge in a land registration case:

"In view of the motion for reconsideration filed by the Director of Lands under date of March 10, 1941, and the opposition thereto filed by the applicants, the court is convinced that there has been a misunderstanding between the parties as to the portions claimed by the oppositors which the applicants were willing to exclude from their application. Consequently, the decision rendered on August 20, 1940, cannot be allowed to stand as it is.

"Wherefore, the decision aforesaid is hereby Bet aside. Let the present case be set for hearing anew in the month of April."

It appears that in said land registration case the herein petitioners applied in the Court of First Instance of Iloilo for the registration of one parcel of land with an area of 15.3139 hectares. That application was opposed by the Director of Lands and the Director of Forestry on the grounds (1) that the applicants had no sufficient title to said land and (2) that a portion thereof formed part of the provincial road. When the case was called for hearing, the following took place according to the minutes of the court session of August 16, 1940:

"The applicants made it of record that they are willing to cede to the government that portion claimed by it based from the reports of the Bureau of Lands and Forestry and as shown on the sketch plan marked as exhibits 1, 2 and 3, all attached to the records of the case—Government.

"Fiscal Zambarrano manifested that in view of the segregation of the portion claimed by the government from the land sought to be registered by the applicant, the opposition of the government to said proceedings is settled."

The case was referred to the Clerk of Court for the reception of the evidence offered by both parties, which was very much abbreviated in view apparently of the supposed agreement reached by the parties as to the exclusion from the application of the portions claimed by the Director of Lands and the Director of Forestry. According to the oppositors' exhibit 3, the parcel of land applied for by the petitioners has been divided into parcels A, B, C, and D—parcel B being a portion of the provincial road with an area of approximately ½ hectare and parcel D, a portion of 3 hectares covered by a homestead application.

In the decision which the court subsequently rendered, parcels A and C were ordered registered in the names of the applicants and parcel B was declared government property. The decision was silent as to parcel D. The

dispositive part reads as follows:

"Wherefore, the order of general default rendered in this case on April 20, 1940, is hereby confirmed and that the adjudication and registration of Lots A and C as shown on the sketch plan (Exh. 'L'), be, as they are hereby ordered in the name and in favor of the spouses, Juan Magbanua and Felicisima Pineda, Filipinos, of age and residents of the municipality of Pototan, Province of Iloilo, Philippines. Lot B is hereby declared property of the Government of the Commonwealth of the Philippines.

"The applicants «re hereby ordered to submit an amended plan based upon the sketch (Exh. 'L') duly approved by the Bureau of Lands, which, with their corresponding; technical description, will be submitted to this Court for approval so that issuance of final decree and title will be considered."

That decision was notified to the parties on August 23, 1940. The motion for reconsideration, based on the failure of the court to exclude parcel D, was filed by the Director of Lands on March 13, 1941.

Petitioners' contention is, that the respondent judge no longer had jurisdiction to entertain the motion for reconsideration and to enter the order in question because his decision had become final. Such contention, we think, is not well taken. In view of the necessity for the applicants to present a new plan as a result of their agreement with the oppositors whereby portions B and D were to be excluded from the land sought to be registered, the decision could not acquire finality until the amended plan which the applicants were ordered in said decision to submit was presented to and approved by the court. Such a decision, which leaves something yet to be done by the parties and the court before it can be enforced, has in various cases been declared by this Court to be interlocutory and not appealable. (See *Ron vs. Mojica*, 8 Phil., 328; *Natividad vs. Villarica*, 31 Phil., 172; *Vicencio vs. Borja*, 50 Phil., 148; *Sancho us. Lizarraga*, 55 Phil., 601; *Fuentebella vs. Carrascoso* [promulgated May 27, 1942], G. R. No. 48102.)

The order assailed by the petitioners is hereby affirmed, with costs. Let the original record elevated here from the court below as per order of this Court of November 22, 1941, be returned thereto for further proceedings. So ordered.

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

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