

BERNARDO FERRER, PETITIONER AND APPELLEE, VS. DOROTEA AND ROSARIO DIAZ, OPPOSITORS AND APPELLANTS.

G.R. No. 5193. February 16, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The petitioner asks for the registration of his title to 14 hectares 62 ares and 32 centares of land, located in Buro, barrio of Valdefuerte, municipality of Cabanatuan, Province of Nueva Ecija.

The plan filed by the petitioner describes and includes not only the land just mentioned but also 12 hectares additional.

The petitioner's title to the 14 hectares above mentioned is clearly established by the deed of the same introduced in evidence by him, in which it appears that he purchased said land of Benedicto Ibarra and Emeterio Ibarra on the 16th day of April, 1907; and by the testimony of the said Benedicto and Emeterio Ibarra, who testified that they and their ancestors had been continuously in possession of said land, cultivating the same, for a period of more than thirty years prior to the execution and delivery of said deed. Dorotea Diaz opposed the registration of the petitioner's title to the land in question upon the ground that the land sought to be registered by the petitioner contained within its limits 16 hectares of land in the possession of said oppositor. Rosario Diaz also opposed the registration of petitioner's title to said land upon the ground that said land described in the petition included within its limits 12 hectares of land in the possession of said Rosario Diaz. These two seem to found their opposition upon a possession of their respective parcels of land, although there is no real proof in the case of such possession, and also upon certain papers issued to them by the Insular Government, giving them authority to take possession of the lands mentioned as homesteads. Such permission from the Insular Government in favor of Rosario Diaz was obtained the 28th of December, 1907; that in favor of Doroteo Diaz bears date the 8th day of February, 1908. Neither of those instruments contains a description of the land referred to therein and we have no means of knowing from the record where said lands are located or what their limits or boundaries may be. The right of the said oppositors in the lands claimed in their opposition rests solely upon the permits issued to them respectively by the Insular Government. There is no proof in the case of their possession of the lands and no evidence as to their location, situation, boundaries, or limits. There is no proof whatever upon which we may sustain the opposition.

The attorney for the oppositors makes some claim that the right to the possession of the land in question has been once adjudicated by the Court of First Instance of the Province of Nueva Ecija in an action brought to test the right to such possession, entitled "Bernardo Ferrer vs. Venancio Diaz and others," in which the complaint of Ferrer was dismissed by the judge. An examination of the order made by the court in that action discloses that said action was dismissed without a trial upon the merits and expressly without prejudice to the bringing of another action for the determination of the rights of the parties to the land in question.

After a careful examination of the record and the proofs we are unable to see any reason why the judgment of the

court below, ordering the registration of the petitioner's title to the land described in the petition, namely, 14 hectares 62 ares and 32 centares, should not be sustained.

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

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Elliott, JJ., concur.

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