

SEVERO AGUILLON, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF LANDS, OPPONENT AND APPELLANT.

G.R. No. 5448. December 16, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 29th of July, 1908, Severo Aguillon, the petitioner, presented a petition in the Court of Land Registration for the registration of certain parcels of land described in the said petition.

On the 14th of November, 1908, the Attorney-General, representing the Insular Government, opposed the registration of the parcels of land in question, upon the theory that the said land belonged to the Government.

At the time of the trial of the cause the Director of Lands amended his opposition to the registration of the parcels of land in question, alleging that the plans presented by the petitioner had not been prepared in conformity with the provisions of sections 4 and 5 of Act No. 1875 of the Philippine Legislature.

Notwithstanding the opposition of the Director of Lands, the Court of Land Registration ordered the registration of the parcels of land in question. From that decision the Director of Lands appealed and assigned as error in this court that the lower court committed an error in admitting the plans Exhibits A and B, upon the ground that they had not been prepared in conformity with the provisions of said Act No. 1875, The plans marked "Exhibits A and B" were made long before the presentation of the said petition for registration and were made by private surveyors who had not been authorized by the Director of Lands or the Governor-General to make surveys for the registration of property in the Land Court. Exhibit A was prepared and finished on the 10th of November, 1906, Exhibit B was prepared and finished upon the same day.

Said Act No. 1875 took effect upon the 1st of July, 1908. The petition in the present case was presented upon the 29th of July, 1908. Said Act was, therefore, in effect at the time of the presentation of the petition. Section 4 of said Act is as follows:

"The surveyor who is employed to prepare surveys, maps, and plats of property shall give due notice in advance to the adjoining owners, whose addresses are known, of the date and hour when they shall present themselves on the property for the purpose of making such objections to the boundaries of the property to be surveyed as they consider necessary for the protection of their rights. The surveyor shall report all objections made to him by adjoining property owners at the time of the survey and demarcation, giving a proper description of the boundaries claimed by the protestant or protestants.

"The surveyor shall define the boundaries of the lands submitted for registration by means of temporary monuments placed on the land and he shall designate on the map or plat the boundaries as claimed by the applicant for registration and the boundaries as claimed by protesting adjoining property owners. In case the court shall find that the boundary line claimed by the protestant or protestants is incorrect and that that designated by the applicant is correct, the cost of making any extra survey over that required by the applicant shall be assessed against the protestant or protestants. Should the boundary line designated by the protestant or

protestants prove to be correct and that of the applicant incorrect the court shall assess the cost of making the survey to the applicant. The usual process of the court shall be available for collecting such costs. The work of survey and demarcation shall not be suspended because of the presentation of any complaint or objection."

Section 5 of said Act is as follows:

"It shall be the duty of private surveyors who make surveys, maps, or plats of property for which registration of title is requested to comply with the requirements of the preceding section and to promptly send their reports, surveys, maps, and plats of such property to the Bureau of Lands for verification. Private surveyors shall not be authorized to make surveys for the Court of Land Registration unless they shall have passed either a civil service examination or an examination by the Bureau of Lands for the purpose of determining their qualifications."

The appellee contends that, inasmuch as his plans had been prepared long before the enactment of the said Act No. 1875, the same was not applicable, for the reason that to make the law applicable to the present case would be giving to said law a retroactive effect, and cites article 3 of the Civil Code and rules 1 and 2 De las Disposiciones Transitorias of the Civil Code, as well as volume 12 of Manresa, page 922, in support of his contention.

In our opinion the law does not have a retroactive effect. It only applied to cases which were begun in the Court of Land Registration after its enactment. The law had been in force nearly a month prior to the commencement of the present action. And moreover the law only related to the procedure - to the character of the evidence which the petitioner must present in support of his claim. It is a doctrine well established that the procedure of the court may be changed at any time and become effective at once, so long as it does not affect or change vested rights.

We are of the opinion that the judgment of the lower court should be reversed and stand reversed until the plaintiff or petitioner presents plans in accordance with the provisions of Act No. 1875, and the case is hereby ordered to be returned to the lower court with direction that the petitioner present his plans in accordance with said Act. If, however, when the plans shall have been presented, the lower court finds that the same conform to the plans already presented, then the judgment heretofore rendered may be affirmed without further procedure. If, however, the new plans when presented do not conform to the plans heretofore presented and shall affect the rights of any persons who have not heretofore been heard, then notice shall be given them and an opportunity to present whatever opposition they may have to the registration of the land included in the new plans. It is so ordered.

Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.

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