

EMILIANO SORIANO, PETITIONER AND APPELLEE, VS. BASILISA TALENS, ADMINISTRATRIX OF THE ESTATE OF SILVINA AMURAW ET AL., OPPONENTS AND APPELLANTS.

G.R. No. 5674. September 22, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of Land Registration ordering the registration of the land described in the application and overruling the objections of the respondents, with costs.

We are entirely satisfied from a careful reading of the proofs and record in this cause that the court, upon the facts, was clearly right in its decision; and we would have no hesitation whatever in affirming the judgment appealed from if it were not for the considerations about to be expressed.

It appears from the record that the proceeding was originally commenced on the 22d day of August, 1908, in the name of Emiliano Soriano personally. The regular notices were issued and published, the return day therein set being the 10th day of March, 1909. On the 30th day of March an application was made by counsel for the applicant for leave to amend his application so that the applicant should be Emiliano Soriano, as administrator of the goods, chattels and credits of Maria Soriano, deceased, instead of Emiliano Soriano personally. That amendment was permitted and from that time forward the proceedings were conducted in the name of Emiliano Soriano, as such administrator. On the 10th day of June a decision was rendered in the case, after due trial, terminating with the following resolution:

"The opposition of the respondents is overruled and, a general declaration in default having been made, it is decreed that the lands described in the application belong to the applicant, and that they be registered in favor of the applicant, Emiliano Soriano, as administrator of the property of Maria Soriano, deceased."

We find no authority anywhere in the law relative to the registration of lands, or in the amendments thereto, permitting an application to be made by an administrator of the goods, chattels and credits of a deceased person for the registration of the lands of which said decedent died seized. In the absence of a statute expressly authorizing the administrator of the deceased owner thereof to that end, we must hold that such administrator has no such authority and that the registration of lands in his name as such administrator is without warrant of law.

As we have before stated, it appears that the service and publication of the notices following the application presented herein were completed before the amendment of the application changing the personality of the applicant. As a result no one can, from that point of view, claim to have been in any way deceived if the proceedings and judgment below are amended so as to register the land in the name of the applicant personally instead of as administrator. There are indications in the record also that the applicant is the only heir at law of the deceased Maria Soriano and that he is, therefore, the only person interested in said lands, conceding that Maria Soriano died owning the same. For these reasons we do not see the necessity of requiring the reservice and republication of said notices in case we order an amendment of the proceedings and decree in the case registering

the land in the name of the applicant personally. We are not, however, fully satisfied that the applicant is the only heir at law of the deceased Maria Soriano and, therefore, the sole owner of the lands in question. Nor are we fully satisfied that there were not other appearances in the case besides that of the respondents now before the court. It is possible that there are persons, co-owners with the applicant, who may have appeared on the return day of the notice and who subsequently may have withdrawn their appearances relying upon the amendment of the application making the applicant the administrator instead of Emiliano Soriano personally, believing that, as heirs, their interests would be fully protected if the lands were registered in the name of the administrator instead of the applicant personally.

In view of these doubts, we open the judgment and remand the cause, with instructions to the court below to take proofs as to the points upon which we have herein expressed doubt. If the court find from such proofs that the applicant is the sole owner of the lands in question, he shall, if the applicant consent thereto, register the lands in the name of the applicant personally, amending all proceedings to conform thereto. If the applicant refuse to consent, an order shall be entered dismissing the application. So ordered.

Torres, Johnson, and Carson, JJ., concur.

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