

THE CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. GEORGE M. LACK, JOSEPH L. DAVIS, OSCAR SUTRO, AND HENRY T. ALLEN, DEFENDANTS AND APPELLANTS.*G.R. No. 5987. April 07, 1911*

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5987/>**MORELAND, J.:**

This is an action of ejectment. In the year 1903 the defendants entered into negotiations with Dona Isabel Morello for the purchase of a large tract of land on Calle Nozaleda in the city of Manila. The price was agreed upon and the contract to purchase executed subject to the curing of certain defects in the record title. On the 29th of April, 1904, the record having been corrected, the property was conveyed by said Dona Isabel Morello to the defendants, and its purchase price, based upon the area of the land sold, was duly paid. The funds which formed the purchase price of the land in question were borrowed from the International Banking Corporation, to secure the payment of which the deed was executed in the name of its manager, A. P. Bullen. At the time of the purchase the vendor was apparently the absolute owner of the property. Her title was recorded in accordance with the Mortgage Law and nothing appeared upon the records or in connection with the property itself physically to give notice to purchasers or to put them upon their inquiry as to the interest of any other person in the property. For some years prior to 1903 the city of Manila had, and continuously since that time has, maintained a water main crossing the property purchased by the defendants from front to rear. This water main was and is completely buried and, so far as the record shows, there is nothing whatever above ground to indicate its existence. That said water main occupied the land in question, or any portion thereof, was, according to the undisputed evidence, unknown to the purchasers at the time they paid the purchase price. Exhibit B shows the land which defendants purchased of Dona Isabel Morello. The strip 4 meters wide and 203 meters long, the land in dispute in this action, in which the water main lies, is not clearly shown on that exhibit, but it lies within the parcel marked *calzada en proyecto* and runs approximately parallel to the axis of the same from Calle Nozaleda to the rear line of the property.

Soon after acquiring the land proceedings were begun by Mr. Bullen in the Court of Land Registration to secure a certificate of title under Act No. 496. On August 15, 1904, a decree was entered ordering the registration in the name of Mr. Bullen of the entire tract conveyed to him by Dona Isabel Morello. Soon thereafter the city of Manila applied to the Court of Land Registration to open its decree of registration and set aside the same in so far as it included the strip of land which is the subject of this litigation. On September 29, 1905, the court granted the petition by an Order which concludes as follows:

"Wherefore the decree of adjudication or inscription rendered by this court on August 15, 1904, is set aside as to that parcel of the land which begins at the northeast line of Calle Nozaleda, opposite Calle San Luis, crosses the remainder of the land described in the decree, and ends at the property of the Paulist Fathers, 4 meters wide and 202.40 meters long, which, being the property of the city of Manila, shall be segregated from the property described on the plan of the applicant as *calzada en proyecto*.

"As soon as this order becomes final, let the description in the aforesaid decree and in the registry be amended

so that the area above referred to shall be eliminated. For this purpose counsel for the applicant shall file an amended description to be approved by counsel for the city of Manila."

In the meantime Mr. Bullen died. His administrator, Mr. N. S. Marshall, presented the amended description required by the order of the court, eliminating the strip containing the water main, and describing the land as two parcels, one lying on each side of that strip. Thereupon, the Court of Land Registration, on November 22, 1905, entered a decree in the usual form, ordering the registrar to issue a certificate of title for the parcels described in the amended application.

The certificate of title was duly issued, and thereafter several pieces of the land so registered were sold, some to the city of Manila. In the deed to the city the strip containing the water main was mentioned as a boundary and was referred to as the property of the city.

As soon as the contract of purchase had been entered into between the defendants and Dofla Isabel Morello, the former took possession of the entire parcel of land purchased and they have ever since remained in possession thereof, except as to those parcels which were sold from time to time. The strip containing the water main has been continuously in the possession of defendants from 1903 up to the present time.

We have thus, as the undisputed evidence in the case, the fact that the defendants bought the land in Question in 1904 from Dona Isabel Morello; that the vendor at that time had a perfect record title (*dominio inscrito*); that the registry disclosed no adverse claim to the land; that defendants, after diligent investigation, purchased in perfect good faith, and that they have remained continuously in possession up to the time of the initiation of this suit.

It is also undisputed that the city has presented no title whatever to the land in controversy except the opinion of Judge Del Rosario of the Court of Land Registration, dated September 29, 1905 (Exhibit C), and the proceedings following as a consequence of that opinion (Exhibits D and E), it being contended on behalf of the plaintiff that that portion of the judgment of the Court of Land Registration excluding from the operation of Act No. 496 the land in dispute in this case is, as to the title to and ownership of said land, *res judicata* between the parties to this action, and that the defendants are estopped by that judgment from denying plaintiff's title. The evidence upon which this decision of the Court of Land Registration was based has not been presented as evidence in this case.

The question of the statements or admissions of the defendants or their immediate grantor relative to the title of the city of Manila to the land in question, as affecting the rights, of the parties to this litigation, has not been raised or presented to us by the attorney for the plaintiff and we have, therefore, not investigated or considered it. On the case as presented and argued there is only one question for determination, namely, that of the force and effect of the order of the Court of Land Registration excluding from registration the land in dispute, the ground for said exclusion being, as asserted by that court, that it belonged to the plaintiff in this action.

The Court of Land Registration was created for a single purpose. The Act is entitled "An Act to provide for the adjudication and registration of titles to lands in the Philippine Islands." The sole purpose of the Legislature in its creation was to bring the land titles of the Philippine Islands under one comprehensive and harmonious system, the cardinal features of which are indefeasibility of title and the intervention of the State as a prerequisite to the creation and transfer of titles and interests, with the resultant increase in the use of land as a business asset by reason of the greater certainty and security of title. It does not create a title nor vest one. It simply confirms a title already created and already vested, rendering it forever indefeasible. The office of the court is solely to register title. The effects and results of that registration are determined by the statute. It determines, "adjudicates" says the title, whether or not upon the facts presented, the petitioner is entitled to have an indefeasible title. If he is, it is given to him, If not, he is driven from court by a dismissal of the petition with the resultant loss of jurisdiction over the whole proceeding. This is its sole function - to confirm and register. It is, therefore, a court with

jurisdiction over a particular subject matter, which subject matter is to be dealt with to a special end. While the power of the court over its subject matter is plenary, it is so only for certain clearly specified purposes and to effectuate only clearly specified ends.

Before the creation of the Court of Land Registration, jurisdiction to determine the nature, quality, and extent of land titles, the rival claims of parties contending therefor, of their registration (in its former sense), and the legality and effect thereof was vested in the Courts of First Instance of the Islands. They had complete and exclusive jurisdiction there over. By the passage of Act No. 496 these courts were deprived under certain conditions of the power of determining some of these questions and of adjudicating in relation to certain aspects of others. To be sure, the court created by that Act deals with the subject matter in a manner entirely new and with regard to which no court of the Islands previously had had power or authority. But it is none the less true that in acting in that manner it resolves questions and determines rights which theretofore had been recognized originally and exclusively by Courts of First Instance. By that Act, therefore, two things occurred worthy of note in the connection in which we are discussing it: First, a court of limited jurisdiction, with special subject matter, and with only one purpose, was created, Second, by reason thereof courts, theretofore of general, original, and exclusive jurisdiction, were shorn of some of their attributes and deprived of certain of their power; in other words, their powers were restricted. This being true, we are confident that, in determining the power and authority of Courts of Land Registration, which determination is fundamental in the decision of the case at bar, there should be applied the general principle of the law that in all cases of special tribunals their jurisdiction is strictly confined and never excludes the courts of ordinary jurisdiction except upon the clearest direction of the legislative will. (Fidelity Trust Co. vs. Gitt Car Co., 25 Fed. Rep., 757; Frevall vs. Bache, 14 Pet., 95; Lackland vs. Walker, 151 Mo., 210; In re opening of 28th Street, 6 Outerbrige (Pa.), 140; Commonwealth vs. Betts, 76 Pa. St., 465; Auderton vs. Kempf, 69 Wis., 470; Catlin vs. Wheeler, 49 Wis., 507; Hummer vs. Hummer, 3 Greene (Ia.), 42; Wright vs. Marsh, 2 Greene (Ia.), 94; Commonwealth vs. Hudson, 11 Gray, 64.) Therefore, unless the provisions of Act No. 496 clearly confer upon the Court of Land Registration jurisdiction to determine finally and conclusively title to lands not registered by its final decree, such jurisdiction does not exist.

Section 2 of said Act, as amended, reads in part as follows:

"The Court of Land Registration shall have exclusive jurisdiction of all applications for the registration under this Act of title to land or buildings or an interest therein within the Philippine Islands, with power to hear and determine all questions arising upon such applications, and shall also have jurisdiction over such other questions as may come before it under this Act, subject, however, to the right of appeal, as hereinafter provided. The proceedings upon such applications shall be proceedings in rem against the land and the buildings and improvements thereon and the decrees shall operate directly on the land and the buildings and improvements thereon, and vest and establish title thereto."

The latter portion of this section should be particularly noted, especially that portion which says that the "decrees" of the court "shall operate directly on the land and vest and establish title thereto." It is the land registered to which the statute directs attention. It is that upon which the decree of the court operates. This is a necessary result of the fact that the whole purpose and object of the law and the court is, as we have already said, to register title to land. Every sentence of the law bends itself to this end and every power given to the court is granted for that result. It touches no other purpose; has no other object; produces no other result. Section 88 provides:

"If the court after hearing finds that the applicant has title as stated in his application, and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section."

Here again we see the whole force and purpose of the court directed to the title of the land registered. The decree

under the Act can contain no other matter than that which relates to the title of the land actually registered. By express terms it can serve no purpose not related to the land registered. Indeed, it is the decree, or a certified copy thereof, which constitutes the title of the applicant. Here is what it shall contain:

"Sec. 40. Every decree of registration shall bear the day of the year, hour, and minute of its entry, and shall be signed by the clerk. It shall state whether the owner is married or unmarried, and if married, the name of the husband or wife. If the owner is under disability, it shall state the nature of the disability, and if a minor, shall state his age. It shall contain a description of the land as finally determined by the court, and shall set forth the estate of the owner, and also, in such manner as to show their relative priority, all particular estates, mortgages, easements, liens, attachments, and other incumbrances, including rights of husband or wife, if any, to which the land or owner's estate is subject and may contain any other matter properly to be determined in pursuance of this Act. The decree shall be stated in a convenient form for transcription upon the certificates of title hereinafter mentioned."

This is the method of giving a paper title:

"SEC. 41. Immediately upon the entry of the decree of registration the clerk shall send a certified copy thereof, under the seal of the court, to the register of deeds for the province, or provinces, or city in which the land lies, and the register of deeds shall transcribe the decree in a book to be called the 'registration book,' in which a leaf, or leaves, in consecutive order, shall be devoted exclusively to each title. The entry made by the register of deeds in this book in each case shall be the original certificate of title, and shall be signed by him and sealed with the seal of the court. All certificates of title shall be numbered consecutively, beginning with number one. The register of deeds shall in each case make an exact duplicate of the original certificate, including the seal, but putting on it the words 'Owner's duplicate certificate,' and deliver the same to the owner or to his attorney duly authorized. In case of a variance between the owner's duplicate certificate and the original certificate the original shall prevail. The certified copy of the decree of registration shall be filed and numbered by the register of deeds with a reference noted on it to the place of record of the original certificate of title; Provided, however, That when an application includes land lying in more than one province, or one province and the city of Manila, the court shall cause the part lying in each province or in the city of Manila to be described separately by metes and bounds in the decree of registration, and the clerk shall send to the register of deeds for each province, or the city of Manila, as the case may be, a copy of the decree containing a description of the land within that province or city, and the register of deeds shall register the same and issue an owner's duplicate therefor, and thereafter for all matters pertaining to registration under this Act the portion in each province or city shall be treated as a separate parcel of land.

"Sec. 42. The certificate first registered in pursuance of the decree of registration in regard to any parcel of land shall be entitled in the registration book 'Original certificate of title, entered pursuant to decree of the Court of Land Registration, dated at' (stating time and place of entry of decree and the number of case). This certificate shall take effect upon the date of the transcription of the decree. Subsequent certificates relating to the same land shall be in like form, but shall be entitled 'Transfer from number' (the number of the next previous certificate relating to the same land), and also the words 'Originally registered' (date, volume, and page of registration.)"

Having laid down the proposition broadly that the sole and only object of the creation of the Court of Land Registration is to register title to land, that its decrees operate only with respect to such land, and that it lacks wholly authority to pronounce a decree upon or in relation to any other subject or for any other purpose, let us now inquire whether this is not fully borne out by the provisions of the law touching the rights of one who appears and opposes the registration.

Section 34 reads:

"Any person claiming an interest, whether named in the notice or not, may appear and file an answer on or

before the return day, or within such further time as may be allowed by the court. The answer shall state all the objections to the application, and shall set forth the interest claimed by the party filing the same, and shall be signed and sworn to by him or by some person in his behalf."

It is important to notice the kind of answer authorized. It is quite different from an answer permitted by law in actions in Courts of First Instance. It has two requisites: It shall set forth "all the objections to the application" and shall set forth the "interest claimed by the party filing the same." Nothing more is required. Inasmuch as the "interest" of the respondent is nowhere again mentioned throughout the whole extent of the law, it is but fair to assume that the real purpose of the provision which contains mention of such interest was to require the answer to disclose the objections to the application, the requirement that the opponent show his interest being merely for the purpose of making plain, full and clear the objections to the application. No joinder of issue by a general denial is permitted. The reason is obvious. When an issue is joined by general denial, the relative rights of the contending parties must be determined. The action then becomes, generally speaking, a personal one. The contest under the general practice and procedure is between the personal rights of the one and the other. The judgment is equally binding upon both; but it binds nobody else and nothing else. The joinder of an issue by general denial would therefore be in a way inconsistent with an action in the Land Court. One whose only right is to object has no need of a joinder of issue by a general denial. Moreover, the requirement that he "state all the objections to the application" imposes upon him much more than he would perform if he merely denied. A denial throws the burden of taking the next step on the petitioner. It asserts nothing and shows nothing. It presents no facts, discloses no rights, offers no reasons. Yet by virtue of it the necessity of taking the next step in the proceeding is put on the petitioner. But this is not the procedure required by the nature of the proceeding. That requires not that the petitioner shall demonstrate something to the respondent, but that the respondent shall demonstrate something to the court; not that the petitioner shall, show reasons for proceeding, but rather that the respondent shall affirmatively show reasons why the applicant should not proceed. In other words, the respondent must by his answer, irrespective of the allegations of the petition, present reasons which of themselves show that the petitioner is not entitled to have the title to the land registered. He must fully expose his case - in short, demonstrate what he is going to prove - before he is allowed to enter court. To be sure, such objections may, under certain circumstances, constitute in effect a general denial, but they always constitute either much more or much less.

From section 34 we also see that no affirmative relief can be asked for in the answer. This is entirely consistent with the theory that the respondent is merely an objector, one who prevents but can not obtain. It is a general rule of pleading and practice that to obtain affirmative relief it is necessary to make sufficient affirmative allegations in the answer to show that the pleader is entitled thereto. Indeed, proof going to establish a right to such relief can not be admitted on the trial in the absence of such allegations in the answer. The Act (No. 496) provides a complete system of procedure for the court it creates. Except in certain cases not of importance in the present discussion, no part of the practice in Courts of First Instance is made applicable to the Court of Land Registration. The form and nature of the pleadings, the practice and procedure followed, are determined by the provisions of the Act. It would ordinarily be presumed that, there being no pleading in which the respondent can assert his rights to affirmative relief, it was not the intention of the law that he should have such relief.

That such is the case is still further shown by the provisions of section 37. It reads:

"If in any case the court finds that the applicant has not proper title for registration, a decree shall be entered dismissing the application, and such decree may be ordered to be without prejudice. The applicant may withdraw his application at any time before final decree, upon terms to be fixed by the court."

Under this section the rights of the respondent, as a party litigant under ordinary practice and procedure, are wholly disregarded. Matters proceed precisely as if he were not there. If the respondent were entitled to

affirmative relief, such as a final determination of the interest he has in the land in question, the dismissal or withdrawal of the application would be a prejudice to such right which could not be permitted under the practice of any court. It would be clearly unjust and indefensible for a court to refuse to pass upon the facts which he had presented to substantiate his rights and calmly dismiss the petition without prejudice to the applicant again to bring the respondent into court with the same futile result to his rights. The conclusion is, therefore, inevitable that it is the intention of the Act to give the respondent no relief whatever except that purely negative in character. He can defend but not attack. He can prevent but not obtain. He is a dog in the manger.

That this is true is still further demonstrated by that portion of section 36 which reads as follows:

"If in any case an appearance is entered and answer filed, the case shall be set down for hearing on motion of either party, * * *. The court may hear the parties and their evidence * * *. If two or more applicants claim the same land, or part of the same land, the court may order the hearings upon all such applications to be consolidated, if such consolidation is in the interest of economy of time and expense."

This latter provision points out the only way whereby one who desires to object to the registration of land in the name of another and at the same time secure an affirmative pronouncement touching his own rights and interests may do so. He must himself become an applicant. The provisions of the Act seem to be so set upon preventing affirmative relief to a respondent that he must totally change, his character as a litigant before he can secure that advantage. When he is able to obtain affirmative relief he has ceased to be a respondent.

It appears from every line of the Act that the court is given power to deal with only one kind of title and that is a title "proper for registration." There appears in the law not a word authorizing the court to determine or adjudicate upon any title less than or different from that. Every other title whenever or however or by whomever presented is a matter of utter indifference to the court, so far as its powers of adjudication are concerned. While it may consider the interest or title presented by the answer and proofs of a respondent, such consideration is not for the purpose of determining that title but simply for the purpose of determining: how that title or interest affects the title of the petitioner. That title or interest is not considered for the purpose of decreeing anything in favor of him who presents it, but solely to determine the registrability of petitioner's title. The court, as we have said, deals with one kind of title only, that is a title fit for registration. It does not deal with the relative strength of title between the applicant and the respondent. With relative rights, as such, the court has nothing to do. It is very possible that neither party may have a title "proper for registration." If so, no matter how much stronger may be the rights of one than those of the other, the court has no power to adjudicate with reference thereto. They must be relegated to the courts of general jurisdiction for the proper remedy. The applicant may have a right in the land which he seeks to register wholly superior to that of the respondent, and yet not have an interest "proper for registration." The matter before the court for determination is quite apart from the relative rights of petitioner and opponent. The question is, "Is this title proper for registration?" And the rights of petitioner and opponent are wholly unimportant except in so far as they throw light upon that question. The proceeding is not only against the respondent but against the world; and the court can not permit a faulty title to be registered simply because it happens to be better than a still more faulty one presented by a single answering defendant. The court deals with all the world. The relative rights of A and B are, strictly speaking, of no consequence except as they assist the court in making a just decree against the world. The function of the court is to determine, in a sense, absolute rights, not relative rights. This seems to be indicated by the fact that the rights which its judgments establish are absolutely indefeasible.

It is our conclusion, therefore, that the Court of Land Registration has no authority or power, by judgment or decree, to adjudicate rights in land not registered. The fact that it is a court of special, though not inferior, jurisdiction, that its procedure is summary, that it acts in rem rather than in personam, that it is authorized to serve its process by advertisement and mailing as well as personally, compel us to think that its activities should be

strictly. limited to the purpose of its creation. While under the wording of the Act it has "exclusive jurisdiction of all applications under this Act of title to land * * * with power to hear and determine all questions arising upon such application," that jurisdiction is restricted by the nature of its functions and the purposes for which it was created. The whole scope, tenor, and purpose of the Act is to limit the functions of the court to the registration of titles. The instant that any part of the land presented for registration is excluded therefrom, it resumes its original status as to everybody and for every purpose, and the rights and interests of persons therein remain to be determined in the ordinary courts of law precisely the same as if such land had never been before the Court of Land Registration.

This court has already gone some way on this road. In the case of *Tecson vs. Corporacion de PP. Dominicos*,^[1] filed with the clerk March 16, 1911, the respondent made objection to the maintenance of the proceedings to register the title to the lands in question upon the ground that there was already pending in the same court at the time this proceeding was begun a proceeding by the respondent as applicant to register the title to the same lands and that the applicant here was a respondent there. In meeting that objection this court said:

"In reply to this contention it is necessary to say only that this court has held heretofore that the jurisdiction of the Land Court extends no further than the inscription of the land described in the final decree, and the enforcement of that decree, and that even though the land described in the petition be found by the court, as between the petitioner and the oppositor, to be the property of the oppositor, such land can not be inscribed in his name, the Land Court having; as we have said, no jurisdiction or power to do so. It naturally and necessarily follows that the opponent, if he desires the land of which he claims ownership to be registered in accordance with law, must begin a new proceeding in the Land Court for that purpose." (*Foss vs. Atkins*, 201 Mass., 158; same case, 204 Mass., 337; *Smith vs. Crissman*, 41 Colo., 450.)

In the case of *Foss vs. Atkins* (204 Mass., 337), cited in that case, it appeared that the petitioner, Foss, duly filed a petition for registering the title to a certain tract of land in Province town. The judge of the Land Court later filed a decision in which he found that the petitioner had title to a part of the land and the respondents to the rest. Later the petitioner filed a motion to dismiss the petition without prejudice. This motion was never acted on by the court. Notwithstanding its pendency, the Land Court allowed a motion of respondents to substitute themselves as petitioners for registration as to so much of the land as had been found by the prior decision of the land court to belong to them. A decree was accordingly entered declaring respondents owners of such part and that their title should be registered. Still later the original petitioner, Foss, filed a motion to withdraw his petition for a registration upon such terms as the court might fix. The court denied this motion on the ground that there had already been entered a final decree of registration in favor of respondents. There was no decision respecting the title to the land found by the Land Court to belong to the petitioner. That matter was still pending at the time of the decision in the case of which we are speaking. The point before the court for decision was whether a decree having as its only foundation the right of a respondent to obtain affirmative relief by being substituted in place of the petitioner was valid. In deciding this question the court said:

"There is no principle of 'procedure or practice either in personal actions or in proceedings in rem nor * * * any provision in R. L. c. 128, which authorizes the Land Court to allow an amendment by which the respondent becomes the petitioner and the petitioner the respondent. If the' respondents 'had wished to become' petitioners they 'should have brought' their 'own petition.' The only decree, therefore, which has been entered is one based wholly upon a pleading which not merely ought not to have been allowed, but which brought before the court a subject which could not under the law come before it in that proceeding. It was not an incidental or collateral error in the progress of a cause, which must be seasonably objected to in order to be corrected. It was a fundamental procedure introducing an issue calling for action affirmative in its nature alien to and incompatible with the pending petition. It brought in a subject beyond the jurisdiction of the Land Court under any petition before it. This is not a decree combining matters partly within the scope of the original petition

and partly upon an amendment which the court had no right to allow, but it is one having no relation to any other subject than the extra jurisdictional one. A decree thus wholly beyond the jurisdiction of the court is void, and may be so treated by any party to the proceeding. It follows that the withdrawal of the petition by the petitioner was seasonably filed, and should have been allowed. (*McQuesten vs. Commonwealth*, 198 Mass., 172.) Although it was pointed out in 201 Mass., at page 161, that the simple and complete remedy of the petitioner was by appeal directly from, the Land Court to this court, it was nevertheless possible to raise the question of law by the more cumbersome method of exception. (*R. L. c. 128*, par. 13; *c. 173*, par. 106. *McCusker vs. Geiger*, 195 Mass., 46.)"

In the case of *Smith vs. Crissman*, above, it was urged before the supreme court of Colorado that the land registration act of that State, which, as to the point under consideration, is, in its provisions, in all essential respects the same as Act No. 496, was in violation of the constitution of that State and also of the fourteenth amendment to the Federal Constitution on the ground that there was a failure of due process of law in that it did not provide for an affirmative judgment in favor of an answering defendant, the only decree permissible being one of dismissal if the applicant did not show title proper for registration. In discussing that question the court said:

"The further contention is that the act is not due process of law in that it fails to provide for an affirmative judgment in favor of a defendant, the only decree permissible being one of dismissal in case the court, after hearing, finds that the applicant has not title proper for registration. The act does accord to all persons equal rights and privileges. Any one desiring to avail himself of its terms can do so by filing his application, and can obtain the registration of his title by complying with the requirements of the statute. Although the legislature has seen fit to allow affirmative relief only to the applicant who initiates the proceeding, this does not render the proceeding objectionable for the reason assigned. The right to a particular remedy is not a vested right. Every state has complete control over the remedies which it offers to suitors in its courts. (*Cooley's Const. Lim.*, 515.)

"It is only by virtue of the statute that a defendant may avail himself of affirmative relief by way of set-off or counterclaim. It was, therefore, clearly, within the province of the legislature to limit the relief afforded by the statute to the applicant who initiates the proceeding."

There are some other reasons for holding that the jurisdiction of the Court of Land Registration to determine title to or interest in land extends no further than to the land actually included in the decree of registration. Under the statute that court is given no power to execute any judgment save that which relates to the land registered. If the statement of Judge Del Rosario constitutes a binding adjudication in favor of the plaintiff and against the defendants in this action, then there ought to be power in the court to enforce that judgment. We do not think, however, that the assertion that there is an absolute failure of such power will be questioned. Generally speaking, courts of law are not constituted to decide questions purely academic, and the fact that a court lacks the power to enforce a decision goes far toward proving that such decision is not within its authority. This is particularly true of a court of special and limited jurisdiction.

Again, if the judgment relied upon as *res judicata* in this case were really such and therefore conclusive, the defendants would be deprived of all recourse against their grantor upon the warranty of title contained in their deed; or the warrantor would be deprived of an opportunity to maintain defendants' title in the courts. Articles 1474 to 1483, inclusive, of the Civil Code provide that the purchaser of land may enforce the warranty of the vendor only when he has been dispossessed by a final judgment obtained by reason of a defect in the title preceding the purchase; and as a condition precedent to enforcing the warranty, the purchaser must give notice to his vendor, the warrantor, of the action for possession, in order that the warrantor may intervene and defend the title. In the case before us there was no way by which Dona Isabel Morello could take part in the proceedings in the Court of Land Registration after the city had made its application to amend the decree of registration. It is

unquestioned that that court would have had no jurisdiction to take cognizance of such an intervention or to render judgment against defendants' vendor on the warranty. In fact, the possession of the land here in controversy was never in question in that court after the city intervened. The fact that Dona Isabel Morello was actually a party is of no consequence in view of the indisputable proposition that the Land Court has no power or authority to render any judgment in any sense adequate to meet the situation presented by her presence.

For these reasons the judgment is reversed and the complaint dismissed upon the merits.

Carson and Trent, JJ., concur.

Arellano, C. J., and Mapa, J., concur in the result.

[1] Page 79, *supra*.

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