

MARIA SALUD FLORES, APPLICANT, VS. THE DIRECTOR OF LANDS, OPPONENT.

G.R. No. 6095. December 16, 1910

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Maria Salud Flores applied to the Court of Land Registration for the registration of two parcels of land situated in Antipolo, Province of Rizal, and her application received favorable action, as the adjudication and registration of the property was decreed on May 15, 1908.

But subsequently, on July 13 of the same year, Mariano Limjap petitioned for a revision of the proceedings had in connection with one of the said parcels and a new hearing was granted.

At this new hearing the applicant recognized the right of the opponent, Mariano Limjap, to the portion of land which was the subject of the opposition and the revision.

The land adjudicated to Maria Salud Flores, concerned in Limjap's opposition, is that situated in Samboanga, municipality of Antipolo, Province of Rizal, with an area of 20,081.96 square meters, the boundaries of which are set forth in the application and are herein taken for granted, since the identity of the property, which is also admitted, was agreed upon. This land that is the subject of Limjap's opposition contains 437 square meters and 50 square decimeters and was acquired at a public auction held by the provincial treasurer of Rizal on July 22, 1904.

The Court of Land Registration, in view of the acquiescence of the applicant, Maria Salud Flores, decreed, on June 30, 1908, the adjudication and registration of the parcel of land claimed by Mariano Limjap and his wife, Maria Escolar. Some time afterwards, Limjap conveyed his right in the said piece of land to Cayetano Arguelles.

The plan of the said Samboanga land having been drawn by the Bureau of Lands, the applicant signified her acceptance.

The facts thus far, which give rise to no discussion whatever and are stated as antecedents of those which constitute the subject matter of the present appeal, are:

- The applicant, in order to distinguish and separate the parcel of land corresponding to Limjap, presented a plan, in agreement with that drawn by the Bureau of Lands and signed only by herself, in which the said parcel is demarcated, with an area of 437.50 square meters, and the remainder, pertaining to the applicant, 18,706.50 square meters.
- On August 28, 1909, the Court of Land Registration issued the following order:

"Whereas, in the plan subscribed by the applicant, Maria Salud Flores, on the 26th of May last, and which is an exact copy of that drawn by the Bureau of Lands, specification is made of the portion of land adjudicated to Mariano Limjap y Nolasco, by a transaction entered into between the latter and the said applicant, which portion has been conveyed to Mr. Cayetano Arguelles y Fernandez * * * let a decree be entered in favor of the

aforementioned Arguelles for the said portion of land referred to in the technical description subscribed by the applicant, Maria Salud Flores, and by Mariano Limjap."

- A surveyor of the Court of Land Registration represented to the latter that the said plan was signed by a person not authorized by the provisions of Act No. 1937 to sign plans, and that it should be returned to the applicant with the requirement that she present a new plan duly approved by the Bureau of Lands.
- The clerk of the Court of Land Registration also called the attention of the applicant to the incorrectness of the statement of the area of each one of the two parcels of land, and suggested to her the necessity of filing an amended application, without which the decree of registration could not be issued. Both the applicant and Cayetano Arguelles filed the new application, rectifying the area of each parcel of land in the following manner: That of Arguelles's land was given as 435.[^]3 square meters, instead of 487.50 square meters; and that of Maria Salud Flores's, as 18,708.47 square meters, instead of 18,706.50 square meters.
- On February 26, 1910, the Court of Land Registration, in harmony with the representation made by one of its surveyors, and contained in fact No. 3 above, made a ruling wherein it ordered that the plan referred to be admitted.
- On March 17, 1910, the Attorney-General protested against and toolran exception to the said ruling, and prayed for its reconsideration on the ground that it was contrary to the provisions of Acts Nos. 1875 and 1937, and announced, moreover, that, in case his motion to reconsider was denied, he likewise would take exception thereto.
- The Court of Land Registration, on March 22, 1910, ruled upon the said motion for reconsideration, denying the same and admitting the exceptions taken to both rulings. In this manner the question was submitted on appeal.

Is it necessary that a plan, exactly copied from one drawn by the Bureau of Lands, in which a parcel of land is demarcated which must be segregated therefrom as belonging to an opponent or some other person not the applicant, be signed by a surveyor authorized to exercise his profession, and that it be again approved by the said Bureau?

Arguments for the contrary opinion are: (1) That, in the case of# Maria Guia Garcia, No. 5399, it was decided that, when the original plan has been approved by the Bureau of Lands, as in the case under examination, it is not necessary to require that the plan of the segregated portion be again approved by the Bureau aforementioned, inasmuch as the surveyors of the Court of Land Registration likewise have the technical and other knowledge required of those of that Bureau and the necessary ability to fudge whether the segregation made of a piece of land on a plan already approved by the Bureau of Lands is or is not correct; (2) that, even when the plans have been approved by the Bureau of Lands, the surveyors of the Court of Land Registration are not exempt from the duty of examining them before they are published or before the titles are decreed; and (3) that the procedure of a new approval by the Bureau of Lands, in the cases of the segregation of any portion of a parcel or tract of land, the plan of which has already been examined and approved by the said Bureau, would only mean an unnecessary repetition of labor.

The following arguments support an affirmative decision of the preceding question: (1) That there is no comparison between the case of Maria Guia Garcia and the present one, since, in the former, the applicant sold a portion of her property after it had been registered, while, in the present case, the property has not yet been registered and the segregation of a part of the same was not effected by any act of the applicant, but through a decree of the Court of Land Registration issued as a result of a revision obtained by the real owner of the land before the decision became final; (2) that, were the said plan admitted, the adjudication would have to be made in accord with the measurements and other data given in the plan, relative to the segregated portion, although the area given in the said plan, both to the lesser and to the greater parcel, was found to be inexact and incorrect, and,

moreover, the said plan is signed by the applicant herself, who is not even a private surveyor, and no value can be attached to the allegation that it is a copy of an original, approved plan, because this original does not contain the portion segregated in that copy; (3) that the boundaries of the segregated portion were established by an unauthorized person, and hence the inexactness in area; and, finally, that, it being the duty of the surveyors of the Court of Land Registration, as it is in fact, to examine the plans submitted to the court, it was a surveyor of the court who complied with his duty in examining the plan and it was he who proposed the rejection of the measurements therein established by one who was not a surveyor, pursuant to the conditions required in section 5 of Act No. 1937.

Since these provisions of the law must be observed, the order appealed from is reversed, and the Court of Land Registration shall require the filing of another plan prepared in conformity with the provisions of Act No. 1937. So ordered.

Torres, Johnson, Moreland, and Trent, JJ., concur.

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