

SYDNEY D. SUGAR, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT, OPPONENT AND APPELLANT.

G.R. No. 6277. February 10, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

The plaintiff in this case is seeking to register under the Torrens Law, Act No. 496, five contiguous parcels of land, specifically described in the petition, situated in the Province of Cavite.

The registration of said land is opposed by the Insular Government, which alleges that the property sought to be registered belongs to the Government of the United States, under the control of the Government of the Philippine Islands. The judgment of the learned court below was in favor of the petitioner and ordered the registration of the land in his name under the provisions of said Act. From that judgment the Government appealed to this court.

Under his second assignment of errors the appellant discusses the question whether or not the land sought to be registered in this case was formed of deposits by the sea, that is, whether or not the land is alluvion, asserting that if it is alluvion and thus formed, such land, under the Law of Waters reigning in the Philippine Islands, belongs to the State. One of the main grounds upon which it bases this contention is the alleged fact that the hacienda of which the five parcels of land in question are a part, as described in a map and plan made in the year 1811, did not contain as much land as is included in a plan of the same hacienda made in the year 1856; and that the said five parcels of land constitute that portion included in the plan of 1856 which was not included in the plan of 1811.

It is admitted that in the year 1856, under an order of the Audiencia de Manila, the limits of the hacienda in question were compared with those as set in 1811, its lines redefined, and a new map thereof made. It is also admitted that such plan includes the land here sought to be registered. It is admitted further that in said year such plan was judicially settled to be a correct plan of the hacienda in question and the lands described in that plan were judicially turned over to the owners of the hacienda in question.

The learned trial court found as a fact that in the year 1856 the owner of said hacienda, acting under the judicial sanction then given, took possession of the lands in question and has been in possession of the same from that time forward. It is true that the Government sought to show by two or three witnesses that people who lived in that vicinity had used at least a portion of the lands involved in this controversy as fishing grounds, and that such acts were exercised by virtue of a public right. This evidence was contradicted by testimony introduced by the petitioner, which tended to show that the lands in question had not been so used by the public and that substantially the only persons who fished upon said lands or any portion thereof were tenants of the hacienda itself. Upon this contradictory proof the trial court found against the contention of the Government. We are of the opinion, after a careful reading of the evidence adduced, that the conclusion of the trial court is sustained by a fair preponderance of the evidence.

No evidence whatever was introduced on the part of the Government to substantiate the claim that the land in question is alluvion. A few isolated phrases have been taken from some of the exhibits introduced in evidence by

the petitioner to establish that claim. The learned trial court held that such portions were not sufficient. We are thoroughly satisfied that he was right in his conclusions. It appears to us to be not only a fair but a necessary conclusion from the exhibits that in the year 1811, as well as in the year 1856, the lands constituting the five parcels here in controversy were a swamp, partly covered with water at high tide and mostly dry during low tide, in which then grew and now grow various species of trees and marine shrubs and plants. So far as can be gathered from the evidence, substantially no change has taken place in the contour of these lands during all the years intervening from 1856 to the present time. Judicial bodies are presumed, in the absence of proof to the contrary, to have performed their duties according to law; and the Audiencia de Manila having in the year 1856 judicially decreed the lands in question to be an integral part of the hacienda, it must be conclusively presumed that said lands were of such a character that they could legally be adjudicated private property. It is to be presumed, therefore, that the lands were not "alluvion" or "playas," they not having been expressly shown to be such.

We necessarily find, therefore, that the contention of the Government in this regard is unfounded.

The third assignment of error presented by the Government is that the learned trial court erred in admitting as evidence Exhibit G over the objection and exception of the attorney for the Government. This exhibit is a writing, signed by Enrique Rodriguez, by himself and as the representative of his sisters, addressed to the military and naval commander of the Province of Manila, opposing the petition of one Felix Torres, who prayed the use of the Lake of Dalahican, in the vicinity of Bacoor, as a place for the growing of mariscos. Enrique Rodriguez was the owner of the hacienda in question at the time when this writing bears date, and his opposition was founded in the proposition that he was the owner of the lands the use of which was sought by Felix Torres. The purpose of the introduction of the writing in question was to demonstrate the validity of the claim of the petitioner in this case that he and his antecessors had been in possession of the lands in question and had maintained that possession against the world. We do not stop to decide whether or not the exhibit was competent evidence. There is abundant proof in the record, aside from the exhibit in question, to sustain the conclusion of the court upon the facts in controversy. Its introduction in evidence was, therefore, without prejudice to the complaining party.

The Government has not shown itself entitled to oppose the registration of the land in question upon any ground. As we have before stated, the evidence is clear that the lands in question are not alluvion. While it appears from the record that a part of the lands are covered at least a portion of the time with water, it has not been shown by the Government that said waters are navigable or that any portion of the land is "playas," in the real sense of that word. On the contrary, the proof seems to indicate by a fair preponderance that the water covering said lands is very shallow, is filled with a growth of marine trees, shrubs and plants, that at low tide most of it disappears. Moreover, it is apparent from the same proofs that such lands are "playas" within the meaning of the law.

For these reasons we affirm the judgment of the court below, without special finding as to costs.

Arellano, C. J., Mapa and Trent, JJ., concur.

DISSENTING

CARSON, J.,

I dissent. I think the evidence of record clearly discloses that a large portion of the tract which petitioner seeks to register in now and always has been a navigable lake, connected with the open sea by a navigable channel; that neither petitioner nor his predecessors in interest ever had or received possession, judicial or otherwise, of this lake; that this lake belongs to the State; and that the decree declaring the petitioner entitled to register the tract described in his application should be modified so as to exclude this lake therefrom.

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