

GREGORIO ACANTILADO Y PASCUAL, PETITIONER AND APPELLEE, VS. MARCELINO DE SANTOS, OBJECTOR AND APPELLANT.

G.R. No. 8242. November 30, 1915

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-8242/>

JOHNSON, J.:

The question presented by the present appeal relates to the legality of the registration, under the torrens system, of the same parcel of land in the name of two different persons.

From an examination of the record, the following facts appear to be undisputed:

1. That on the 12th of February, 1912, the said Gregorio Acantilado y Pascual presented a petition in the Court of Land Registration, for the registration of a certain piece or parcel of land located "en el sitio de Lapsing a Bassit," of the municipality of Moncada, Province of Tarlac, which parcel is particularly described in paragraph 1 of the complaint. The said parcel of land is described as composed of two pieces, one known as the east portion and the other as the west portion. The complaint alleged that it contained 37 hectares, 84 ares, and 94 centiares.
2. That notice by publication and otherwise was given of the presentation of said petition and of the pendency of the action for the registration of said parcel of land.
3. That on the 26th of September, 1910, the plaintiff filed an amended complaint, in which the description of the land set out in the first paragraph of said complaint was changed. The amended complaint asked for the registration of 38 hectares, 61 ares, and 61 centiares. Said amended complaint was never published in the Official Gazette.
4. That on 27th of September, 1910, the day following the day on which the amended complaint was presented, the Honorable James A. Ostrand, one of the judges of the land court, rendered a decision, in which he ordered the registration of the parcel of land in question (without indicating whether it was the parcel described in the original complaint or that described in the amended complaint) in conformity with paragraph 6 of section 54 of Act No. 926.
5. That on the 6th of December, 1910, the Acting Director of Lands notified the Court of Land Registration, through its clerk, that a portion of the land ordered to be registered in the name of Gregorio Acantilado y Pascual had theretofore been registered in the name of another person, in the Court of Land Registration, in a case known as cause No. 5550.
6. That on the 10th of December, 1910, the chief of the division of surveyors of the Court of Land Registration notified said court in writing that, in his opinion, a portion of the land included the decree of the present plaintiff had theretofore been included in another decree in favor of Marcelino de Santos, in cause No. 5550.
7. That on the 22d of December, 1910, the clerk of the Court of Land Registration, by order of the court, sent a copy of the written statement referred to in paragraph 6, to Marcelino de Santos.

8. That on the 16th of January, 1911, the judge of the Court of Land Registration issued an order suspending the order decreeing the registration of the parcel of land in question in favor of the plaintiff herein, for a period of three months, for the purpose of giving the said Marcelino de Santos an opportunity to ascertain whether or not his land, involved in the decree in said cause No. 5550, had been included in the decree in favor of the plaintiff herein.

9. That on the 6th of April, 1911, the chief of the division of surveyors of the Court of Land Registration, in writing notified the court that a portion of the land included in the petition of the plaintiff herein (cause No. 6263) had theretofore been registered in the name of Marcelino de Santos, in cause No. 5550.

10. That on the 24th of April, 1911, the Honorable James A. Ostrand rendered a decision, in which many of the foregoing facts are related, and ordered that the decree of registration in accordance with his order of the 27th of September, 1910, be issued to the plaintiff.

11. That on the 4th day of May, 1911, the said Marcelino de Santos, through his attorneys, (record, page 80), presented a motion and prayed the court to set aside its order of the 24th of April, 1911, and to grant a rehearing.

12. That on the 8th of May, 1911, the Honorable James A. Ostrand set said motion down for hearing for the 20th of May, 1911, and suspended the execution of the decree of registration, pending the resolution of said motion.

13. That on the 25th of May, 1911, said motion was brought on for hearing.

14. That on the 29th of August, 1911, Marcelino de Santos presented another motion, in which he prayed that the court grant a rehearing in said cause and annul his order decreeing the registration, of the 27th of September, 1910, and exclude, from the land included in said decree, 5 hectares of land which belonged to him and which had theretofore been registered in cause No. 5550, in the Court of Land Registration.

15. That on the 31st of August, 1911, the Honorable James A. Ostrand denied said motion for a rehearing, declaring the decree of registration of the 27th of September, 1910, to be in full force and effect, without prejudice to the right of Marcelino de Santos to present a petition asking for a revision of the cause, in accordance with the provisions of section 88 of Act No. 496. (See record, page 99.)

16. That on the 1st of September, 1911, Marcelino de Santos, through his attorneys, presented a petition for the revision of all of the procedure taken and had in the present cause, in accordance with the provisions of section 38 of Act No. 496.

17. That after due notice to all the interested parties, said motion for a revision of the present case was brought on for hearing on the 14th of September, 1911, during the consideration of which motion the said Marcelino de Santos presented as proof much of the record in cause No. 5550.

18. That after hearing the respective parties upon said motion for revision, the Honorable James A. Ostrand, judge, denied said motion, to which order of denial the defendant duly excepted and appealed to this court, and made several assignments of error.

From all the foregoing facts, there are two important facts to be taken into consideration in the solution of the question presented in the present appeal:

(1) That the Court of Land Registration had issued a decree for the registration of a certain parcel of land; and

(2) That before that decree became final the court was reliably informed, and that fact has not been denied, that a portion of said parcel of land had theretofore been registered in the name of another party, the defendant herein, in another action, theretofore pending in said court.

The decree ordering the registration of said parcel of land was made on the 27th of September, 1910; the judge was duly notified on both the 6th and the 10th of December, 1910, that said decree for the registration of said parcel of land included a portion of the land theretofore registered in the name of the defendant. Upon receiving said notification, the judge properly suspended his decree, for a period of three months. After several motions and several orders, the lower court intimated that the remedy of the defendant was to ask for a revision of the cause, in accordance with the provisions of section 38 of Act No. 496. A petition for that revision was presented and later denied. The defendant stood ready at all times to demonstrate to the court that a portion of his land which had theretofore been registered under the torrens system had been reregistered in the name of the plaintiff, in another action, and included in another certificate.

From the foregoing, we have the important question presented whether or not the Court of Land Registration should not only have permitted the defendant to have demonstrated that a portion of his land, which had theretofore been registered, had again been registered in the name of another person subsequently, but should also have required the plaintiff, under the allegation of the defendant, to have demonstrated that the certificate which had been ordered granted to him did not include land theretofore registered in the name of another.

In view of the decision of this court in the case of Legarda and Prieto vs. Saleeby (31 Phil. Rep., 590), we are of the opinion and so hold, that it was the duty of the court to have ordered an investigation of the question presented by the defendant, for the purpose of determining whether or not the facts reported to the court by the chief surveyor and alleged by the defendant, were true. The question which we have decided is not whether or not there existed fraud on the part of the plaintiff in securing the registration of the land in question, even though there may be some indications of fraud in the record. (For example, the fact that the plaintiff did not describe the defendant as one of the adjoining owners of the land in question, even though that fact was well known to him.) The question which we have decided is one relating to a double registration of the same land, under the torrens system. We have decided, as between the original parties, that the first registration shall be lawful as against a subsequent registration, in the name of another person, of the same land. (Legarda and Prieto vs. Saleeby, *supra*.)

For all of the foregoing, the order of the court denying a revision of the cause, dated October 17, 1911, (record, page 122) is hereby reversed, and it is hereby ordered, and decreed that the record be returned to the proper judge, having jurisdiction of the land in question, for the purpose of determining whether or not any portion of the land heretofore decreed to the defendant in cause No. 5550 had been included in the decree in favor of the plaintiff herein, in cause No. 6263, and without any finding as to costs, it is so ordered.

Arellano, C. J., Torres and Araullo, JJ., concur.

DISSENTING OPINION

MORELAND, J.:

I cannot agree to the reasoning or to the conclusion of the court in this case.

The court says: "In view of the decision of this court in the case of Legarda and Prieto vs. Saleeby (31 Phil. Rep., 590), we are of the opinion and so hold, that it was the duty of the court to have ordered an investigation of the question presented by the defendant, for the purpose of determining whether or not the facts reported to the court by the chief surveyor and alleged by the defendant were true. The question which we have decided is not whether or not there existed fraud on the part of the plaintiff in securing the registration of the land in question, even though there may be some indications of fraud in the record. * * * The question which we have decided is one relating to a double registration of the same land, under the torrens system. We have decided, as between the original parties, that the first registration shall be lawful as against a subsequent registration, in the name of

another person, of the same land."

The court further says: "For all of the foregoing, the order of the court denying a revision of the cause, * * * is hereby reversed, and it is hereby ordered and decreed that the record be returned to the proper judge, having jurisdiction of the land in question, for the purpose of determining whether or not any portion of the land heretofore decreed to the defendant in cause No. 5550 had been included in the decree in favor of the plaintiff herein, in cause No. 6263 * * *."

The judgment just quoted seems to me without foundation of any kind in the record. The matter referred to in the decree has already been passed on by the Court of Land Registration, as appears from the facts stated in the very decision in which the above judgment appears. The respondent, Marcelina de Santos, had from the 22d day of December, 1910, to the 14th day of September, 1911, to present his evidence to the Court of Land Registration relative to the overlapping of the descriptions in the decrees in case No. 5550 and the one now pending. The decree was opened on his motion for that very purpose and held open for about nine months. On that motion, which was decided on September 14, 1911, Santos offered in evidence the record in case No. 5550. That brought into the cause the official plan and description of the land in that case and all the documents and evidence found therein. (See paragraph 17 of opinion of this court.) On the hearing of that motion the court, on the evidence and arguments presented, found against the mover and denied his motion. That was, of course, a finding that there was no overlapping according to the records of the two cases or, if there was overlapping, the rights of the petitioner in the case at bar were prior to those of Santos as they appeared in the record in case No. 5550. In either event, there was a decision of the Court of Land Registration on the question as to whether or not there was overlapping in the two cases, i. e., there was a decision of the claim of Santos on the merits. That this is the case appears affirmatively from the statements of fact in the decision to which I am dissenting. Now, regardless of whether the decision of the Court of Land Registration was correct or not, it is clear that, the Court of Land Registration having already decided the cause on the merits, there is no reason for sending the case back for "an investigation of the question presented by the defendant" or "for the purpose of determining whether or not any portion of the land heretofore decreed to the defendant in cause No. 5550 had been included in the decree in favor of the plaintiff herein." As we have before stated, Marcelino de Santos had all of the time intervening between December 22, 1910, and September 14, 1911, to present evidence relative to that very question, and he availed himself of the opportunity by presenting all the evidence he had on the subject, including the record in case No. 5550. On that evidence the Court of Land Registration found against his contention. On what ground, then, is* the judgment of this court based in sending it back for further investigation? We have before us the judgment of the Court of Land Registration on a given question with respect to which the parties offered all the evidence they had. What is the power of this court in the premises? Why, necessarily, to determine whether the judgment of the Court of Land Registration was correct on the evidence. This, the only question before it, the court refuses to decide and sends the case back for. Santos to do what he has already done and which the Court of Land Registration conceded him almost a year in which to do, and on which we have the judgment of a court on the merits from which no appeal has been taken. This sort of procedure is not only illegal, but is unjust and inequitable. It delays the petitioner in the realization of the rights which the law gives him, it suspends the interests of the parties in property the title to which ought to be settled speedily, and it requires the expenditure of additional sums of money on, the part of persons who have already expended large sums to do the very thing which the court now asks them to spend an equivalent sum to do again. If the judgment of the land court is wrong, then we should reverse it. If it is right, we should affirm it. But we should not compel the parties in the case to do again exactly what they have already done. Such a requirement is useless and expensive.

Moreover, the question whether, or not there was an overlapping in the two cases referred to is not before this court on this appeal. The judgment of the land court disposing of that question (September 14, 1911), to which I

have already referred, was not appealed. The only judgment or order appealed was that denying a motion based on section 38 of Act No. 496, and alleging simply and solely that the petitioner in this case obtained the registration of the lands therein described, or a portion thereof, by fraud. It appears from the decision of this court that, after the decree of registration was made by the land court, the Director of Lands notified the court that there was overlapping of the descriptions in the present case and in No. 5550. (Paragraph 5 of decision.) Later, and on the 10th of December, 1910, the chief of the division of surveyors of the Court of Land Registration notified the land court that it was his opinion that there was overlapping of the descriptions in the two cases. To ascertain the truth of that allegation the land court notified Marcelino de Santos on December 22, 1910, of that allegation and later suspended the issuance of the order decreeing the registration for the purpose of giving Santos an opportunity to protect himself. (Paragraphs 7 and 8.)

On the 24th of April, 1911, the Court of Land Registration in a decision reviewing all of the proceedings theretofore had, together with all new matter offered, found contrary to the contention of those who claimed overlapping, and ordered the registration of the land in accordance with the description in the case at bar. Later, and on the 4th of May, 1911, Santos moved the court to set aside that order and to grant a rehearing. This motion was granted and the court set the rehearing for the 20th of May, suspending, in the meantime, the operation of the order for the decree of registration. The hearing was actually had on the 25th of May. No disposition seems to have been made of that motion and, on the 29th of August, Santos presented another motion in which he asked to have excluded from the proposed decree of registration certain land which he claimed belonged to him and already registered in case No. 5550, thus again raising and presenting to the land court the very same question which had been pending since December of the year before. On the 31st of August, 1911, the Court of Land Registration, on all of the evidence presented, denied the motion of Santos, finding that there was no overlapping of descriptions in the two cases, and that the decree in the present case contained no land belonging to Santos. In the order denying the motion the court reserved to Santos the right to make a motion under the provisions of section 38 of Act No. 496, which relates solely to opening a decree of the Court of Land Registration within one year from the entry thereof, for fraud. No appeal was taken from the order just referred to finding that there was no overlapping and denying the remedy asked for by Santos; and, of course, that order is not before this court on this appeal. Later, and on September 1, 1911, Santos moved the court to open the decree and to set a portion of the same aside under the provisions of section 38 of Act No. 496 on the ground that the registration of a portion of the land described in the decree had been obtained by the petitioner by fraud. That was the sole basis of the motion, and was presented in pursuance of the reservation made by the court in its order of August 31. On the 14th of September that motion was heard and denied and the order denying that motion is the one and the only order or decision of any kind in this whole case from which an appeal has been taken and is the only order before this court on this appeal. That motion was made, as we have said, under section 38 of Act No. 496, which provides that the decree of registration "shall be conclusive upon and against all persons," and "shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby" except that "any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud" may, within a year, "file in the Court of Land Registration a petition for review." That the motion was based on that ground exclusively is shown by the fact that Santos had already fought out every other question and had failed by virtue of various decisions of the land court from which he had taken no appeal, and also from the prayer of the motion itself, which is; "The applicant, therefore, prays this honorable court to order a revision of the whole case under the provisions of section 38 of Act No. 496 * * *." This motion was denied and an appeal taken from the order of denial; and that is the only order from which appeal has been taken and that is, therefore, the only order before us.

That the motion referred to was based solely on the allegation of fraud is shown by the decision of the court on the motion, which says in part: "Marcelino de Santos asked for a revision of the decision of this court dated

September 27, 1910, under the provisions of section 38 of Act No. 496, alleging that there was included in the decree in this case a part of the Hacienda Esperanza, which hacienda had already been registered under the Torrens system in favor of the applicant.

"Under the doctrine laid down by the Supreme Court in the case of Grey Alba vs. De la Cruz (17 Phil. Rep., 49), it is necessary in order to obtain a revision in such cases to prove that the registration complained of has been obtained by actual fraud or bad faith. The evidence produced by the applicant in support of his motion for a revision not only demonstrates no bad faith on the part of the applicant in this case, but, on the contrary, the evidence shows clearly that in reality no part of the applicant's land has been included in the lands registered in favor of Gregorio Acantilado.

"For which reasons the motion of Marcelino de Santos is denied."

As clearly appears from the motion and the decision of the land court thereon, said motion was based exclusively on the ground that Acantilado had obtained the registration of a portion of Santos' lands by fraud. That was the only question before the court and was the only question decided by the court. Accordingly, an appeal having been taken from the order denying that motion, the only question presented for this court to determine on the appeal is whether or not the registration of the land in question had been obtained by fraud. Instead of taking up that question and deciding it, this court has utterly ignored it, has taken up a question not before it, namely, that of double registration or overlapping, and, citing Legarda and Prieto vs. Saleeby, has sent the case back for purposes entirely unconnected with the pending question and for the performance of acts and the making of an investigation already performed and made and on which acts and investigation the land court has passed by final orders based on the merits which have not been appealed and which are, therefore, not before this court.

Furthermore, it is to be noted that no appeal was taken from the decree of registration and that decree is not before us. The facts on which it is based are not the subject of controversy in this court, and we are not called on in any way to consider it or any of its provisions unless it appears that it was obtained by fraud, in which case we would return the case with instructions to the land court to set the decree aside. In spite of the fact that such decree is not before us, we have opened it for the purpose of a reinvestigation of the facts on which it is based, this court having ordered that "the record be returned to the proper judge, having jurisdiction of the land in question, for the purpose of determining whether or not any portion of the land heretofore decreed to the defendant * * * had been included in the decree in favor of the plaintiff herein * * *."

In view of all of the foregoing the following remarks of the court are incomprehensible to me: "The defendant stood ready at all times to demonstrate to the court that a portion of his land, which had therefore been registered under the Torrens system, had been re-registered in the name of the plaintiff, in another action, and included in another certificate."

He could not have been very ready to demonstrate if it required nine months for the court to bring him to the point of doing it. And, besides, as we have already seen, he did present all the evidence he had and the land court passed on it and definitely and clearly refused to open the decree because the evidence he presented was insufficient.

The same may be said of the following: "From the foregoing, we have the important question presented whether or not the Court of Land Registration should not only have permitted the defendant to have demonstrated that a portion of his land, which had theretofore been registered, had again been re-registered in the name of another person subsequently, but should also have required the plaintiff, under the allegation of the defendant, to have demonstrated that the certificate which had been ordered granted to him did not include land theretofore registered in the name of another."

I am unable to understand the first part of the statement as it has already been clearly shown, and is found by the

decision itself, that the defendant was permitted to demonstrate in the court below the fact of double registration; that he had about nine months' time in which to do it; and that he offered all of the evidence he had to that end, introducing, as we have seen, the record in case No: 5550. It thus appears affirmatively in the decision that the land court did permit the defendant to demonstrate, or attempt to demonstrate, the fact referred to. The great difficulty which the land court had was not to prevent Santos offering such evidence but to compel him to produce it; and about nine months elapsed before he did produce it, and then it was held by the land court to be insufficient to establish his claim. The second part of the statement which asserts that the land court should have "required the plaintiff * * * to have demonstrated that the certificate * * * did not include land theretofore registered in the name of another," is, it seems to me, of doubtful legality or propriety. The general rule is that parties who make affirmative allegations must prove them, and the defendant having affirmatively alleged that the decree already entered covered lands registered theretofore, it was incumbent on Santos to prove the allegation. If that were not so, the rule relative to the burden of proof would not only be changed but the plaintiff would be required to allege and prove a negative. As a matter of fact he had already proved what was, in effect, equivalent to that fact or he would not have been able to obtain his decree of registration. Before that decree could issue, he was obliged to show that the land which he claimed and which was described in the official plan filed with the petition was his land; and the proof of that fact was, in effect, a denial that any other land was included therein. That being so, it is altogether superfluous to prove that fact again simply because Santos alleges that the decree in favor of the petitioner includes his land, when he offers no evidence to establish that fact. A naked allegation could do harm to no one. To be effective it must have been proved.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.