

**PAULA MALOLES, BERNABE MALVAR, AND PAULA MALOLES, AS
GUARDIAN AD LITEM FOR HER CHILDREN, PETITIONERS AND
APPELLEES, VS. THE DIRECTOR OF LANDS, REPRESENTING THE
GOVERNMENT OF THE...**

G.R. No. 8326. October 14, 1913

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was originally commenced by Miguel Malvar, husband of the said Paula Maloles and father of the other petitioners. After the commencement of the action and before the trial, the said Miguel Malvar died and the present petitioners were substituted by an amendment to the petition.

The petitioners allege that they are the owners of a parcel of land located in the sitio known as Maquiling, of the barrio of San Antonio, municipality of Santo Tomas, Province of Batangas, and included within the forest reserve of Maquiling. The petitioners allege that the land is more particularly described as follows: That it is bounded on the north by the lands of Claudio Medranas, Miguel Malvar, the hacienda de Calamba, and Maximo Malvar; on the east by the lands of Maximo Malvar and Maria Tapia; on the south by the lands of Maximo Malvar, Juan Sanchez, and Miguel Malvar; and on the west by the lands of Potenciano Villegas, Tranquilino Centeno and Miguel Malvar. The petitioners allege that the superficial area of said tract of land is approximately 228.4296 hectares. The petitioners allege that said land had been acquired by them and their predecessors by a *composicion gratuita con el Estado*, and a portion by purchase from person whose names are given in paragraph 4 of the petition.

At the time of the presentation of the petition, the petitioners presented a plan or map of the land in question which showed that the said parcel of land contained 236.2618 hectares.

On the 4th day of December, 1911, the Director of Lands, through Ignacio Villamor, Attorney-General, filed an answer opposing the registration of the lands described in the petition.

After hearing the evidence, the Honorable Norberto Romualdez, Judge, found that the petitioners were entitled to have the land in question registered, and so ordered. From that order the Director of Lands appealed and in this court alleges that the lower court committed an error in denying the opposition presented in the lower court and in decreeing and adjudging the registration of the land in question in favor of the petitioners.

After the presentation of the petition, the registrar of deeds of the Province of Batangas was requested to make a report upon the question whether or not the land involved in the petition had been registered in the registry of deeds of said province. On the 13th day of November, 1911, the registrar of deeds of the Province of Batangas presented a written report in which he said that none of said lands described in the petition were registered in the registry of property of the Province of Batangas.

It will be remembered that the petitioners alleged that the lands in question had been obtained by a *composicion*

con el Estado and by purchase from certain individuals whose names appear in the petition. No documentary proof whatever was presented by the petitioners in support of the allegation. The reason which was given for the failure to present said documents was the fact the they had all been lost except three. These three (composiciones con el Estado) are united with the record. Just how they got into the record is not disclosed. They were neither made apart of the petition nor were they presented as proof during the trial of the cause. However, the lower court considered them as proof in the cause and no objection is now raised against their consideration. We will, therefore, examine them for the purpose of ascertaining their value as proof in support of the claim of the petitioners. They are not marked as exhibits. We will, therefore, refer to them by reference to the pages on which they appear in the record.

The first (p. 10) is a composicion con el Estado, apparently issued on the 30th day of November, 1891, for a parcel of land said to contain 28 hectares, 10 ares and 92 centiares located in the barrio of San Rafael, pueblo of Santo Tomas;

The second (p. 14) is a composicion con el Estado, issued on the same date as the first (the 30th day of November, 1891) for a parcel of land said to contain 27 hectares, 15 ares and 70 centiares, located in the barrio of San Rafael, pueblo of Santo Tomas;

The third (p. 18) is a composicion con el Estado, issued on the same date (the 30th day of November, 1891) and is for a parcel of land said to contain 26 hectares, 19 ares and 22 centiares, also located in the barrio of San Rafael, pueblo of Santo Tomas.

It will be noted that each of said documents refers to land located in the barrio of San Rafael. It will also be noted by reference to the petition in the present case, that the lands which the petitioners are seeking to have registered are located in the barrio of San Antonio, pueblo of Santo Tomas. No attempt was made, during the trial of the cause, to show that the lands described in said composicion con el Estado, located in the barrio of San Rafael, are the same lands described in the petition in the present case, located in the barrio of San Antonio, pueblo of Santo Tomas.

Said documents (at pp. 10, 14, and 18) furnish no proof, therefore, of the ownership of the petitioners of the lands in question. The fact that said documents presented relate to lands in a different barrio from the lands involved in the present case, leads us to doubt very much whether the other documents which are claimed to have been lost by the petitioners, refer to the lands involved in the present litigation. And moreover, by reference to paragraph 4 of the complaint, it will be seen that the petitioners claim that they purchased a portion of the lands in question from the following persons; Gregorio Centeno, Ignacio Anda, Simeon Malacaman, Catalino Antonio, Pedro Maloles, Maximo Malabuyok, Perfecto Quinio, Florentino Molayba, and Gregorio Macasadya, yet, during the trial of the cause no proof whatever was offered in support of said allegation. Not only did the petitioners present no proof showing that a portion of the land in question had been purchased from said persons, but they presented proof showing that said allegations were not true. The petitioner, Paula Maloles, testified that the land was obtained from the parents of herself and her husband. Not a word of testimony was given during the trial of the cause showing that any portion of the land was obtained from the persons mentioned in said paragraph 4 of the complaint.

The petitioners, during the trial of the cause, attempted to show that they had been in possession of and actually cultivating the lands involved in the present litigation for a period of about thirty or more years. The proof, however, upon that question is very indefinite and uncertain. The proof presented by the opposition shows that the lands are generally mountainous forest lands and not devoted to nor adapted for agricultural purposes. The lands seem to be wholly mountainous forest lands.

The petitioners in their complaint prayed that if the court should find that they had not the title necessary for the registration of the property, that then they should be given the benefit of paragraph 6 of section 54 of Act No. 926. Said section refers to agricultural lands. The proof showing that the property in question is not agricultural land, we are unable to give the petitioners the benefit of said section.

One of the primary and fundamental purposes of the registration of land under the Torrens system is to secure to the owner an absolute, indefeasible title, free from all encumbrances and claims whatsoever, except those mentioned in the certificate of title, and, so far as it is possible, to make the certificate issued to the owner by the court, absolute proof of such title. In order, however, that the petitioner for registration of his land under the Torrens system shall be permitted to have the same registered and to have the benefit resulting from the certificate of title finally issued, the burden is upon him to show that he is the real and absolute owner, in fee simple, of the lands which he is attempting to have registered. The petitioner is not entitled to have his lands registered under the Torrens system simply because no one appears to oppose his title and to oppose the registration of his lands. In order that land may be registered under the Torrens system, the petitioner must show, even though there is no opposition, that he is the absolute owner, in fee simple, of the same. Courts are not justified in registering property under the Torrens system in the name of the petitioner simply because there is no opposition offered. In view of the fact that the entire revenues of the state under certain conditions are made subject to the payment of damages for errors in the wrongful registration of property, courts should insist upon unquestionable proof of absolute ownership in fee simple on the part of the petitioner. The petitioner may be the owner, as a matter of fact, of the land and yet be unable to furnish satisfactory proof of the kind required for registration under the Torrens system at the time of the presentation of his petition for registration. The denial of the petition for registration is not conclusive proof that the petitioner is not the owner. The denial of a petition for registration simply indicates that he has not furnished that kind of proof showing an absolute title in fee simple which is required under the Torrens system. It is the duty of the courts, even in the absence of any opposition, to require the petitioner to show, by a preponderance of the evidence and by positive and absolute proof, so far as it is possible, that he is the owner in fee simple of the lands which he is attempting to have registered

After a careful examination of the record brought to this court, we find that there was no proof whatever adduced during the trial of the cause, justifying the registration of the land in question in favor of the petitioners. The petitioners have, failed utterly to prove the allegations of their complaint. Therefore the judgment of the lower court is hereby reversed, and without any finding as to costs, it is so ordered.

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

Moreland, J., concurs in the result.

[1] Case Nos. 8336, 8337, and 8338, involving similar questions, were considered and decided at the same time with the same result.

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