

**MARIA DEL CONSUELO FELISA ROXAS Y CHUIDIAN, PETITIONER
AND APPELLEE, VS. RAFAEL ENRIQUEZ ET AL., OBJECTORS AND
APPELLANTS.***G. R. No. 8539. December 24, 1914*

Ponente: JOHNSON, J.

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It appears from the record that on the 12th day of January, 1906, the said petitioner, Maria del Consuelo Felisa Roxas y Chuidian, presented a petition in the Court of Land Registration for the purpose of having registered, under the Torrens system, four parcels of land, known as Parcel A, Parcel B, Parcel C, and Parcel D, all of which were located in the city of Manila. The only one of said parcels to which attention need be given in the present appeal is Parcel A.

From an examination of said petition we find that parcel A was described generally and technically.

"I. General description.—It is a parcel of land with the buildings erected thereon, located in the district of Binondo of this city between Nos. 84, 90, 92, 94, and 96 Calle Escolta and the northern bank of the Pasig River; bounded on the north by Calle Escolta for 31.08 meters, on the south by the Pasig River for 25.19 meters, on the east by the estate of Pedro P. Roxas for 66.48 meters, and on the west by the estate of the heirs of Antonio Enriquez for 62.10 meters; with an area of 1,817.03 square meters as set forth in the attached plan.

"II. Technical description.—The undersigned on the 26th of the present month proceeded to survey and fix the boundaries for preparing the topographical plan of a lot occupied by buildings of strong materials one and two stories high belonging to Maria del Consuelo Roxas y Chuidian, located in the district of Binondo of this city between Nos.- 84, 90, 92, 94, and 96 Calle Escolta and the northern bank of the Pasig River. The point marked on the plan with the letter 'X,' located at the vertex of the angle formed by the northeastern side of Calle Escolta and the corner of the Pasaje de Perez was selected as the basic point, whence S. 49° 40' W., 27.75 meters is located Point A, chosen as the point of beginning for the topographical operations, the result whereof is as follows:

Points or stations

Directions in degrees

Distances
in meters

Boundaries

A to B

S. 44°30'W

31.08

Calle Escolta.

B to C

S. 46° 15' E

16.15

Heirs of Antonio
Enriquez .

C to D

S. 42° 00' E

32.75

D to E

S. 40° 50' E

13.20

E to F

N. 49° 45' E

14.25

Pasig River.

F to G

N. 52° 00' E

10.94

G to H

N. 37°10' W

24.90

Pedro P. Roxas.

H to I

N. 35°45' W

6.56

I to J

N. 50°30' E

1.92

J to K

N. 35°00' W

7.60

K to A

N. 42°15' W

25.50

"The lot described has an area of 1,817.03 square meters; all the points specified are marked on the attached plan, the bearings are magnetic, and its boundaries are: on the north, Calle Escolta; on the south, the Pasig River; on the east, the estate of Pedro P. Roxas; and on the west, the estate of the heirs of Antonio Enriquez."

The plan to which reference is made in the above technical description and which accompanied the petition is as follows and is marked "Exhibit A."

(see image page 35)

By comparing the above technical description with the plan presented (Exhibit A), it will be noted that the line A-B in the technical description runs S. 44°, 30' W., and that the distance between A and B was 31.08 meters, while in the plan line A-B runs S. 46°, 30' W., a distance of 31.08 meters. Attention is called to this difference between the technical description and the plan at this time, but its importance to the questions presented will be discussed below.

Attached to said petition was a number of documents presented as exhibits, showing the chain of title of the petitioner.

We find that said petition contains a statement of the names of the adjoining owners of the land in question. The petition gives the names of said persons, as follows:

"The names, surnames, and post-office addresses of the owners of the parcels of land conterminous with this estate are, according to my information:

"The heirs of Antonio Enriquez, whose representatives are the attorneys Hartigan, Marple, Solignac & Gutierrez, 7 Anda, Intramuros, Manila, Pedro P. Roxas, 154 Malacañang, San Miguel."

Upon the presentation of said petition, the plan, and the documents showing the chain of title of the petitioner, the matter was referred to the examiner of titles of the Court of Land Registration, who made a very careful examination of the title of the petitioner to the land in question, and on the 5th day of March, 1906, presented a very carefully prepared report, in which he sets out in detail the title of the petitioner to said Parcel A, as well as the other parcels, and recommends the registration of said Parcel A, as well as the others, in the name of the petitioner.

Upon the issue thus presented we find that the Honorable Simplicio del Rosario, judge, on the 23d day of March, 1906, in accordance with the provisions of section 31 of Act No. 496, issued the following notice:

"UNITED STATES OF AMERICA,

"PHILIPPINE ISLANDS.

"[Registration of title. Court of Land Registration.

"Case No. 1895.]

"To the Attorney-General of the Philippine Islands; the Municipal Board of the city of Manila; A. Sing, Nos. 84-88; A. Burke, No. 90; Messrs. Macke and Chandler and F. M. Sousa, these two No. 90 interior; Ramon Genato, No. 142; Tomas Serreno, No. 92; Rosendo Comas, No. 94; Cheng Tao Sang, No. 96; Luciano Cordoba, No. 28; Messrs. Salgado, Gordillo and Martinez, No. 32; Messrs. Greilsammer Bros., No. 36; and Messrs. Williams & Chandler, No. 34, upstairs; these on Calle Escolta; Antonio Vy Chuico, No. 226, and Lim Tinco, No. 200, these two on Calle Rosario; Ang Seng Queng, Calle Nueva No. 149; and Candido Lim, Calle

Jaboneros No. 113; all these of the district of Binondo; Messrs. Hartigan, Rohde & Gutierrez, attorneys of the heirs of Antonio Enriquez, Calle Santo Tomas, corner of Calle Cabildo, district of Intramuros; Carmen Ayala de Roxas, No. 154; and Maximo Cortes and Dolores Ochoa, these two No. 330, the three on Calle Malacañang, district of San Miguel; Francisco Saez, Plaza de Goiti No. 14, Alfonso Tiaoqui, Calle Lacoste No. 122, and Gervasia Rosario Ventura, Calle Dulumbayan No. Ill, these three of the district of Santa Cruz; and Enrique Somes, Calle Alix No. 140, district of Sampaloc; all of the city of Manila, P. I., and to all whom it may concern:

"Whereas an application has been presented to said court by Maria del Consuelo Felisa Roxas y Chuidian, through her attorney in fact Antonio Bonifas, Calle Padre Herrera No. 59, district of Tondo, city of Manila, P. I., to register and confirm her title in the following described land: Four parcels of land with the improvements of strong materials thereon, situated in the district of Binondo, Manila, P. I., more particularly bounded and described as follows:

"Parcel A.- Situated on the Escolta Nos. 84-96, beginning at a pt. marked 'A' on plan, being S. 49° 40' W., 27.75 m. from the W. end of the chaflan at the S. intersection of the Escolta and Pasaje de Perez; thence S. 46° 30' W., 31.08 m. along the SE. line of the Escolta, to pt. 'B'; S. 46° 15' E., 16.15 m. to pt. 'C'; S. 42° E., 32.75 m. to pt. 'D'; S. 40° 50' E., 13.20 m. to pt. 'E'; N. 49° 45' E. 14.25 m. to pt. 'F'; N. 52° E., 10.94 m. to pt. 'G'; N. 36° 20' W., 14.20 m. to pt. 'H'; N. 38° 40' W., 17.16 m. to pt. T; N. 52° 35' E., 2.27 m. to pt. T; N. 38° 50' W., 4.12 m. to pt. 'K'; N. 53° 30' E., 0.30 m. to pt. 'L'; N. 40° 05' W., 14 m. to pt. 'M'; N. 44° W., 15.35 m. to pt. of beg.; containing 1,817.03 sq. m. Lines from pt. 'E' to 'G' follow the NW. bank of the Pasig River.

"Bounded on the NE. by property of Carmen Ayala de Roxas; SE. by the Pasig River; SW. by property of the heirs of Antonio Enriquez and NW. by the Escolta.

"Date of survey, December 26, 1905.

"You are hereby cited to appear at the Court of Land Registration to be held at the City Hall, Calzada de las Aguadas, city of Manila, P. I., on the 25th day, or April, A. D. nineteen hundred and six, at 8 o'clock in the forenoon, to show cause, if any you have, why the prayer of said application shall not be granted; and unless you appear at such court at the time and place aforesaid your default will be recorded and the said application will be taken as confessed, and you will be forever barred from contesting said application or any decree entered thereon.

"Witness the Hon. S. del Rosario, judge of said court, this 23d day of March in the year nineteen hundred and six.

"Attest: "A. K. JONES,
"Clerk of said Court."

In accordance with said order of publication, the clerk of the Court of Land Registration, on the 28th day of March, 1906, sent a copy of said order to each of the persons mentioned therein, by registered mail. The record shows that each of said persons received a copy of said notice, including the representative of the heirs of Antonio Enriquez (Hartigan, Rohde & Gutierrez). The record further shows, by the certificate of James J. Peterson, sheriff of the city of Manila, that said notice was posted upon the land in question. The record further shows that said notice had been published in two daily newspapers of the city of Manila, The Manila Times and La Democracia

On the 17th day of April, 1906, "A"K. Jones, clerk of the Court of Land Registration, made the following certificate relating to the notices and to the publication of the notices required by section 31 of Act No. 496.

"UNITED STATES OF AMERICA,
"PHILIPPINE ISLANDS.
"COURT OF LAND REGISTRATION.

"Case No. 1895.

"Maria del Consuelo Felisa Roxas y Chuidian, Applicant. "I, A. K. Jones, clerk of the Court of Land Registration of the Philippine Islands, certify that, in compliance with the order issued by said court, a notice referring to the application for registry No. 1895, presented by Antonio Bonifas, as representative of Maria del Consuelo Felisa Roxas y Chuidian, was published once only in the daily newspapers of this city, The Manila Times on March 28, 1906, and La Democracia on the 31st of the same month and year, in English and Spanish respectively, and notice was served upon the Attorney-General of the Philippine Islands; the Municipal Board of the city of Manila; A. Sing; A. Burke; Macke & Chandler; F. M. Sousa; Ramon Genato; Tomas Serrano; Rosendo Comas; Cheng Tao Sang; Luciano Cordoba; Salgado, Gordillo & Martinez; Greilsammer Hermanos; Williams & Chandler; Antonio Vy Chuico; Lim Tinco; Ang Seng Queng; Candido Lim; Hartigan, Rohde & Gutierrez; Carmen Ayala de Roxas; Maximo Cortes and Dolores Ochoa, Francisco Saez; Alfonso Tiaoqui; Gervasia Rosario Ventura; and Enrique Somes, a copy of said notice in Spanish having been sent to each one on March 28, 1906, by registered mail. And for the purposes of the necessary procedure, I issue the present in Manila on the 17th day of April, 1906.

"A. K. JONES,
"Clerk of the Court"

On the 19th day of April, 1906, the record shows that Modesto Reyes, attorney for the city of Manila (p. 131, record) presented a written statement to the court calling its attention to the fact that there existed an "error of closure" in the plan of said Parcel A, and asked the court to correct the error. The said attorney also called the attention of the court to the fact that other errors existed with reference to the other plans of the other parcels of land, included in the original petition. Our attention has not been called to any order made by the lower court, relating to said request of the attorney of the city of Manila.

In accordance with said notice to all of the interested parties, the hearing on the said petition was brought on for trial on the 25th day of April, 1906, at 9 o'clock a. m., at the place mentioned in said notice. At that hearing the petitioner was represented. No one appeared to represent the "heirs of Antonio Enriquez"

On said date (April 25, 1906, at 9 o'clock a. m.) the cause relating to said Parcel A was brought on for trial. Mr. Antonio Bonifas appeared for the petitioner and Mr. Modesto Reyes, attorney for the city of Manila, appeared for the city of Manila. Mr. Reyes called the attention of the court again to the fact that there existed certain errors in the measurement of some of the sides of the plan presented by the petitioner. In view of said fact (the existence of errors) the court ordered that said errors be corrected. So far as the record shows no correction whatever was made in the plan of said Parcel A.

On the 21st day of July, 1906, the cause having been brought on for hearing, the honorable Simplicio del Rosario, judge, dictated the following order or judgment in default against all persons:

"UNITED STATES OF AMERICA
, "PHILIPPINE ISLANDS.
"COURT OF LAND REGISTRATION.

"No. 1895.

"Application of Maria del Consuelo Felisa Roxas y Chuidian for registration of the real estate described herein,

"vs.

"The Attorney-General of the Philippine Islands; the Municipal Board of the city of Manila; A. Sing; A. Burke; Macke & Chandler; F. M. Sousa; Ramon Genato; Tomas Serrano; Rosendo Comas; Cheng Tao Sang; Luciano Cordoba; Salgado, Gordillo & Martinez; Greilsammer Hermanos; Williams & Chandler; Antonio Vy Chuico;

Lim Tinco; Ang Seng Queng; Candido Lim; Hartigan, Rohde & Gutierrez; Carmen Ayala de Roxas; Maximo Cortes and Dolores Ochoa; Francisco Saez; Alfonso Tiaoqui; Gervasia Rosario Ventura; and Enrique Somes; and whomsoever it may concern, defendants.

"The present case having been duly tried, and

"Whereas, the clerk of this court caused to be published once only a notice in due form referring to the application mentioned, in two newspapers of general circulation, one printed in the English language and another in the Spanish language, to wit, The Manila Times of this city, and La Democracia of the same city; and 119 days have elapsed since publication of said notice was effected;

"Whereas, said clerk caused to be sent by registered mail, within seven days after the publication of the said notice, a copy thereof in the Spanish language to each one of the persons named in the application or who appeared to be concerned therein;

"Whereas, the sheriff of Manila posted in a conspicuous place on each of the parcels of land included in the application a certified copy of the notice in Spanish, and also in a conspicuous place in the principal municipal building of the city of Manila, before the fourteen days preceding that set for the termination of the period fixed;

"Whereas, all of the persons cited as defendants have failed to appear to impugn the application, within the period fixed by the law;

"This court orders a declaration of default against all the defendants and other persons who may be concerned in opposing the application, which is granted.

"Given by the Honorable S. del Rosario, judge of the said Court of LarJ Registration, in Manila, this 21st day of July 1906.

"Attest:

"A. K. JONES,

"Clerk of the Court"

Later the Honorable Simplicio del Rosario dictated the following order, decreeing that said parcel of land, A, be registered as the absolute property of Maria del Consuelo Felisa Roxas y Chuidian. Said decree was as follows:

"Having tried case No. 1895, this court decrees that Maria del Consuelo Felisa Roxas y Chuidian, of Manila, Philippine Islands, applicant, spinster, is the absolute owner of the real property, which is adjudicated to her, located in the city of Manila, the description whereof is hereinafter set forth:

"A parcel of land, situated at Nos. 84 to 96 Calle Escolta, district of Binondo; bounded on the NE. by the property of Carmen Ayala de Roxas; on the SE. by the Pasig River; on the SW. by the property of the heirs of Antonio Enriquez ; and on the NW. by Calle Escolta.

"Beginning at a point marked A on the plan, which point is 27.75 m. S., 49° 40' W. from the extreme W. of the angle situated at the intersection S. of Calle Escolta and Pasage de Perez; and from said point A., S., 46° 30' W., 31.08 m. to point B; thence S., 46° 15' E., 16.15 m. to point C; thence S., 42° E., 32.75 m. to point D; thence S., 40° 50' E., 13.20 m. to point E.; thence N., 49° 45' E., 14.25 m. to point F; thence N., 52° E., 10.94 m. to point G; thence N., 36° 20' W., 14.20 m. to point H; thence N., 38° 40' W., 17.16 m. to point I; thence N., 52° 35' E., 2.27 m. to point J; thence N., 38° 50' W., 4.12 m. to point K; thence N., 53° 30' E., 0.30 m. to point L; thence N., 40° 05' W., 14 m. to point M; thence N., 44° W., 15.35 m. to point of beginning; having an area of 1,817.03 square meters.

"All the points named are marked on the plan; the bearings are magnetic; date of survey, December 26, 1905.

"Wherefore this court orders that the said real property be registered in accordance with the provisions of the Land Registration Act in the name of the aforesaid Maria del Consuelo Felisa Roxas y Chuidian, subject however to any of the encumbrances set forth in section 39 of said Act that may be in force and effect.

"Given by the Honorable S. del Rosario, judge of the said Court of Land Registration, in Manila, this twenty-first day of July, nineteen hundred and six, at eight o'clock and ten minutes ante meridian,

"Attest:

"[SEAL.] (Sgd.) "A. K. JONES,
"Clerk of the Court."

"A copy of this decree was sent to the register of deeds of Manila, September 25, 1906."

On the 21st day of July, 1906, the court issued the certificate of title known as No. 742, and delivered to the petitioner the owner's duplicate, and the property became registered under the Torrens system, in the name of the petitioner.

After the registration of said Parcel A in the name of the petitioner, on the 21st day of July, 1906, nothing further seems to have been done in the Court of Land Registration until on or about the 19th day of December, 1911, nearly five years and a half after said land had been registered, when we find that the assistant attorney of the city of Manila filed the following petition:

"UNITED STATES OF AMERICA,
"PHILIPPINE ISLANDS.
"COURT OF LAND REGISTRATION.

"Case No. 1895.

"Roxas y Cuyugan, applicant.
"MOTION.

"The city of Manila, through its undersigned attorney, comes now into the court and respectfully represents.;

"I. That the plan of the property with which the present ease deals is affected by an error of closure greater than 1/1500;

"II. That the city of Manila is interested in the correction of said error as it has to expropriate a portion of said land for use as a public street;

"Therefore, the petitioner prays the court to order a new survey of said property described in the plan filed in this ease.

"Manila, P. I., December 18, 1911."

It is not clear whether said petition refers to the incorrections in the plan of Parcel A or to the incorrections in the plans of the other parcels of land (B, C, and D), which were included in the petition of the petitioner.

On the 23d day of December, 1911, the honorable Charles H. Smith, judge of the Court of Land Registration, referred the petition of the city of Manila to the chief surveyor of the court. On the 27th day of December, 1911, the said surveyor reported to the court that there existed "errors of closure in said plans."

On the 5th day of January, 1912, the judge of the Court of Land Registration ordered the chief surveyor to prepare new plans, in accordance with section 4 of Act No. 187S, and directed that notice be given to the adjoining owners.

On the 28th day of February, 1912, the original petitioner, Maria del Consuelo Felisa Roxas y Chuidian, presented a petition for the correction of the certificate issued to her on the 21st day of July, 1906, so as to include the buildings upon the lands included in her petition. Said petition was as follows:

"UNITED STATES OF AMERICA,

"PHILIPPINE ISLANDS.

"COURT OF LAND REGISTRATION:

"Case No. 1895.

"Maria del Consuelo Felisa Roxas y Chuidian, applicant. "Comes now the applicant into the honorable Court of Land Registration and represents:

"1. That on January 10, 1906, Don Antonio Bonifas, in the name and representation of the applicant, sought the legalization of property title to four estates, among them the following:

" (a) A parcel of land with the buildings erected thereon, located at Nos. 84 to 96 Calle Escolta, district of Binondo.

"(b) Another parcel of land with the buildings erected thereon located at Nos. 28 to 36 Calle Escolta, district of Binondo.

"(c) Another parcel of land with the buildings erected thereon, located at No. 149 Calle Nueva, corner of Callejon Carvajal, district of Binondo.

"2. That the other estate mentioned in the said application refers to a parcel of land, with the buildings erected thereon, located at Nos. 222 to 230 Calle Rosario, district of Binondo, which buildings were totally destroyed by the fire that occurred on the 2d of November of the year just past, and it cannot therefore be included in the purpose of the present application.

"3. That in the said application it is stated that the land of the estate designated by the letter (a) was assessed at 65,072 dollars and 50 cents United States currency, and the buildings at 18,500 dollars United States currency; that the land of the estate designated by the letter (b) was assessed at 55,020 dollars and 50 cents, United States currency, and the buildings at 15,000 dollars, United States currency; and the land of the estate designated by the letter (c) was assessed at 5,658 dollars United States currency, and the buildings at 5,000 dollars United States currency.

"4. That both in the property titles to the said estates and in the plans and technical descriptions thereof which accompany said application and are annexed to the above- entitled case, it appears that on the parcels of land which form part of the estates under consideration there are erected buildings, consisting of two houses of strong materials, one behind the other, in the estate designated by the letter (a) ; a house of stone and masonry in that designated by the letter (b) ; and another house of stone and masonry in that designated by the letter (c).

"5. That in the record of the register of deeds, in the registration entries referring to the said estates, it appears that they consist of the parcels of land and the buildings stated.

"6. That in the notice to the Attorney-General, the Municipal Board, the tenants, and owners conterminous with the estates referred to therein, the buildings erected on them likewise mentioned.

7. That by decree of June 21, 1906, adjudication and registration of the estates were ordered in applicant's favor in the terms set forth in the application; but in the certificate of the decree or resolution under consideration, issued by the clerk of the court, the description of the parcel of land corresponding to each estate was given, but the respective building on each was omitted, and in this form were issued the certificates of title, Nos. 472, 764, and 743, which accompany this application.

"8. That on January 12, September 21, October 9 and 22, 1906, the legal representative of the applicant guaranteed by deposit, as assurance fund, the rights of issuance of title and one-tenth of 1 per cent of the assessed valuation, the sum of P943.70 Philippine currency, the receipts and vouchers wherefor do not accompany this application because the applicant destroyed them in the belief that there was no need to exhibit them, but averring that the amounts paid for those purposes are credited in the accounting division of the Court of Land Registration and the office of the register of deeds, as has been ascertained by a person delegated therefor by the applicant.

"9. That when the applicant attempted to alienate one of the estates mentioned she observed the omission in the corresponding certificate of title of the building existing thereon, the same as in the certificates of title corresponding to the other two estates; and as it is to be supposed that said omission is due solely to a simple clerical error, which nevertheless greatly affects the applicant's right, she appeals to your honorable court with the request that you order the correction of said omission, especially as there at present exist on the said parcels of land, without modification or alteration, the same buildings that existed when legalization of title thereto was applied for and which appear in the titles of acquisition annexed to the above-entitled case, reference whereunto has been made in the third paragraph.

"10. That for greater assurance and for the purpose of proving that the said estates consist not only in the parcel of land or lot but also in the building erected on each, the applicant attaches hereto the assessment or property-tax receipts for each of the said estates, wherein are stated the two points mentioned.

"11. That in view of what has been set forth and explained, the applicant prays the honorable court to decree, after the necessary legal proceedings, correction of the omission referred to by ordering the free issuance of a new certificate of title to each of the said estates, wherein record be made of the building erected on each, consisting of those enumerated in the third paragraph of this application.

"MANILA, February 28, 1912.

"MARIA DEL CONSUELO FELISA ROXAS Y CHUIDIAN."

On the 9th day of April, 1912, the Masonic Temple Association of Manila sent a communication to Honorable Charles H. Smith, judge of the Court of Land Registration, accompanied by a contract, showing that on the 20th day of March, 1912, Maria del Consuelo Felisa Roxas y Chuidian had sold all her right, title, and interest in said Parcel A, including the buildings thereon, to the said Masonic Temple Association of Manila. Said Masonic Temple Association of Manila requested the judge of the Land Court to attach said contract to the record in the case and issue a new certificate to it.

On the 19th day of April, 1912, a new plan of said Parcel A, prepared by Mr. B. W. Hay, surveyor of the Bureau of Lands, was presented, in accordance with the order of the court of the 23d of December, 1911. Said new plan was made for the purpose of correcting the errors in closure in the original plan presented by the petitioner [^]^n the 10th day of January, 1906. Said new plan is as follows (see page 48) :

After the presentation of said new or corrected plan, the motions:

- (a) That of the city of Manila to have corrected the error of closure in the original plan;
- (b) That of Maria del Consuelo Felisa Roxas y Chuidian, to have included in her certificate of title the buildings located upon the lands registered in accordance with her original petition; and
- (c) That of the Masonic Temple Association of Manila, to have a certificate issued to it in accordance with its contract of purchase of said lands from Maria del Consuelo

(see image page 48)

Felisa Roxas y Chuidian—after notice had been given to all the interested parties, were set down for hearing. For one reason or another, the hearings on said motions were transferred from one date to another from the 22d of April, 1912, until the 24th of August, 1912. During said various hearings, in addition to the appointment of a commission to view the premises, certain proof was taken upon the question of the correctness of the original plan presented by the petitioner, in January, 1906. During said hearings the heirs of Don Antonio Enriquez appeared and apparently made some objection to the granting of said motions. They presented no written statement in which their specific objections appear. The nearest approach to a definite and specific statement of their objections appears in the argument of their counsel at the close of said several hearings, in which it appears that their objection to the correction of the original plan and certificate and the issuance of a new certificate to the Masonic Temple Association of Manila was based upon the ground that they claimed easements or servitudes in the land in the question.

After hearing all of the parties, the Honorable Charles H. Smith, judge of the Court of Land Registration, and his associates, the Honorable James A. Ostrand and the Honorable Norberto Romualdez, auxiliary judges of said court, sitting in banc, on the 24th day of August, 1912, by a unanimous decision, granted the motions of the city of Manila, of Maria del Consuelo Felisa Roxas y Chuidian, and of the Masonic Temple Association of Manila.

On the 10th day of September, 1912, the attorneys for the objectors presented a motion for new trial, basing it upon the ground that the conclusions of the lower court were manifestly contrary to the proof. After a due consideration of said motion for a new trial and after hearing the respective parties, the Court of Land Registration, sitting in banc, composed of Charles H. Smith, James A. Ostrand, and Norberto Romualdez, denied said motion, and the case was appealed to this court. In this court the respondents presented the following assignments of error:

- "1. That the court below erred in holding that the proceedings of the Court of Land Registration were valid in entering judgment in favor of the plaintiff and appellee, confirming the title to lot 4, which is in controversy in this suit.
- "2. That the judgment of the lower court is contrary to law.
- "3. That the judgment of the court below is against the manifest weight of the evidence."

After a careful examination of the argument of the appellants in support of each of said assignments of error, we are of the opinion that they may be discussed together.

In the argument of the appellants in support of their assignments of error, there is but little argument against the decision of the court rendered on the 24th of August, 1912. Practically the whole argument of the appellants is based upon the ground that the original certificate (No. 742, issued July 21, 1906) is absolutely void, for the reason that "the appellants had no notice of the pendency of the original action to confirm the title of said property." Appellants now admit that a notice of the pendency of the original action was sent to attorneys Hartigan, Rohde & (Marple?) Gutierrez. Appellants now allege that it affirmatively appears that neither this firm/nor any of its members represented the defendants and appellants in that action. The record shows, as we have pointed out above, that the original petition showed that Hartigan, Rohde & Gutierrez were the representatives of the heirs of Don Antonio Enriquez, and that notice was duly sent to them. We have searched the record now in vain to find the slightest denial of the fact that they were the representatives of said heirs, even though one of said attorneys represented them, or at least some of them, in the present proceedings. So far as the record shows there is not even a suggestion found in the various hearings and proceedings taken and had under the above motions, that said attorneys were not the representatives of the heirs of Don Antonio Enriquez at the time of the original proceedings. Neither does the record show any attempt on their part to deny the fact that they

received the notices given in the original action. The appellants assert in their argument that "personal notice was absolutely necessary in order to justify the court below in rendering a decree in favor of the plaintiff and appellee, in the first instance" (the original proceeding). The appellants, by that argument, attempt to show, not that the judgment of the 24th of August, 1912, was invalid, but that the original certificate (No. 742) was void, because they had not been served with personal notice. This brings us to the question whether or not personal notice to all of the persons interested in an action for the registration of real property under the Torrens system, is an absolute prerequisite to the validity of said registration. It will be remembered that we noted above that personal notice of the pendency of the original petition had been given and that a publication of the same had been made in accordance with the provisions of sections 31 and 32 of Act No. 496. After the expiration of the period during which notice must be given, the original cause was set down for hearing. The record also shows that the clerk of the Land Court made a certificate showing that that notice had been issued and published in accordance with the law. Section 32 provides, in part, that said "certificate of the clerk that he had served the notice as directed by the court, by publishing or mailing, shall be filed in the case before the return day, and shall be conclusive proof of such service."

On the day set for the hearing of said original petition, no one appeared to oppose the granting of the prayer which it contained. Section 35 of Act No. 496 provides: "If no person appears and answers within the time allowed, the court may at once, upon motion of the applicant, no reason to the contrary appearing, order a general default to be recorded and the application (petition) be taken for confessed. By the description in the notice, "To all whom it may concern," all the world are made parties defendant and shall be concluded by the default and order. The court shall not be bound by the report of the examiner of titles, but may require other and further proof."

The provisions of section 35 seem to be directly contrary to the contention of the appellants. It seems to directly contradict the requirement of personal notice as an absolute prerequisite to the granting of a valid title under the Torrens system.

The same idea is further confirmed by the provisions of section 38 of said Act No. 496. Said section 38 provides that: "Every decree of registration shall bind the land and quiet the title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government, and all the branches thereof, whether mentioned by name in the application, notice or citation, or includes in the general description 'To all whom it may concern.' "

There is a further and very strong intimation in the law that personal notice is not absolutely a prerequisite to the validity of title under the Torrens system. Section 32 (Act No. 496) provides that: "The court shall, so far as it deems it possible, require proof of actual notice to all the adjoining owners and to all persons who appear to have an interest in or claim to the land included in the application." It will be noted also that the petitioner in registration cases is not by law required to give any notice to any person. The law requires the clerk of the court to give the notices. (Sections 31 and 32 of Act No. 496.) It is true that "the court may also cause other or further notice of the application to be given in such a manner and to such persons as it may deem proper." Thus it is seen that the applicant is by express provision of law relieved from any obligation whatsoever to give notice to any person of the pendency of his application to have his land registered under the Torrens system. That being true, upon what theory may the applicant be subjected to harassment or delay or additional expense, because some person claims that he did not receive actual personal notice? Sections 101 and 102 (Act No. 496) seem to contain a remedy for persons who have suffered damages for the failure on the part of court officials to comply with the law. (*Noble State Bank vs. Haskell*, 219 U. S., 104.) His remedy is not to have the registration and certificate annulled, unless he comes within the provisions of section 38, and even then he is without a remedy against the applicant unless he can show, within a period of one year after the decree of registration and the granting of the

certificate, that he has been "deprived of land or any estate or interest therein," by fraud, and not even then, if an "innocent purchaser for value has acquired an interest." In the present case five years and a half had transpired and negotiations for the sale of the land to an innocent purchaser had been terminated. There is no intimation that the petitioner is guilty of fraud, in the slightest degree.

While the Torrens Land Law is a law of modern times, it has been adopted in many States and its provisions have been attacked at almost every point. The requirement relating to notices has been a fruitful source of litigation. The constitutionality of the law has been attacked many times, because of the provision of said law relating to notices. This is not the first time that the question has been presented to this court. The same question was presented to this court in the case of *Grey Alba vs. De la Cruz* (17 Phil. Rep., 49). In that case the registered title was attacked upon the ground that fraud existed, simply because personal notice had not been given!) The existence of fraud was predicated upon the failure of actual personal notice. In passing upon that question, this court, speaking through Mr. Justice Trent, said (quoting from the syllabus) :

"In original proceedings for the registration of land under Act No. 496, the appellee herein was made a party-defendant by publication, but was not personally served with notice: Held, That the decree of the Court of Land Registration is conclusive against him as well as all the world."

"The proceedings for the registration of land, under Act No. 496, are in rem and not in personam. A proceeding in rem, dealing with a tangible res, may be instituted and carried to judgment without personal service upon the claimants within the state or notice by name to those outside of it. Jurisdiction is secured by the power of the court over the res. Such a proceeding would be impossible were this not so, for it would hardly do to make a distinction between the constitutional rights of claimants who were known and those who were not known to the plaintiff, when the proceeding is to bar all. (*Tyler vs. Judges*, 175 Mass., 71.)"

In the present case there is not the slightest intimation that the original applicant (*Maria del Consuelo Felisa Roxas y Chuidian*) was guilty of fraud. The record shows that she named all the persons who might have an interest in the registration of her land, in her petition. The applicant is not charged even with negligence. The record shows that she did all the law required her to do.

In discussing the Torrens Land Law we must keep in mind that its primary purpose is the registration of the title which the applicant or petitioner has and to relieve his land of unknown liens or claims, just as unjust, against it. The Torrens system of land registration is a system for the registration of title to land only, and not a system established for the acquisition of land. It is not intended that lands may be acquired by said system of registration. It is intended only that the title, which the petitioner has, shall be registered and thereby cleared of all liens and burdens of whatsoever character, except those which shall be noted in the order of registration and in the certificate issued.

If there exist known and just claims against the title of the applicant, he gains nothing in effect by his registration, except in the simplicity of subsequent transfers of his title. The registration either relieves the land of all known as well as unknown claims, absolutely, or it compels the claimants to come into court and to make there a record, so that there- after there may be no uncertainty concerning either the character or the extent of such claims.

The requirement that personal notice shall be a prerequisite to the validity of registration would absolutely prohibit foreclosure of unknown claims, for the reason that personal notice could never be given to "unknown claimants" The great difficulty in land titles arises from the existence of possible unknown claimants. Known claimants can be dealt with. They furnish no valid impediment, in fact, to the transfer of titles.

Courts have held that in actions in rem personal notice to owners of a res is not necessary to give the courts jurisdiction to deal with and to dispose of the res. (*Grey Alba vs. De la Cruz*, 17 Phil. Rep., 49; *Tyler vs. Judges*,

175 Mass., 71; American Land Company vs Zeiss, 219 U. S., 47.) This rule was first established in admiralty proceedings. It was established out of the very necessities of the case. The owner of a ship, for instance, lived in London. His ship was found in the most distant ports of the earth. Its operation necessarily required supplies, such as men, coal, and food. The very nature of its business necessitated the making of contracts. The continuance of its voyage depended upon its capacity to make contracts and to get credit. It might also, perchance, cause damage to other craft, in like conditions. To be able to secure all such necessities, to satisfy all possible obligations, to continue its voyage and its business on the high seas, merchants and courts came to regard the "ship" as a person, with whom or with which they were dealing, and not its real owner. Consequently there came into existence this action in rem. For the purpose of carrying into effect the broader purposes of the Torrens land law, it has been universally considered that the action should be considered as one in rem. Mr. Justice Holmes, then of the Supreme Court of the State of Massachusetts, and now a member of the Supreme Court of the United States, in the case of Tyler vs. Judges (175 Mass., 71), in discussing this question, said:

"Looked at either from the point of view of history or of the necessary requirements of justice, a proceeding in rem, dealing with a tangible res, may be instituted and carried to judgment without personal service upon claimants within the State or notice by name to those outside of it, and not encounter any provision of either constitution (of the State of Massachusetts or the United States). Jurisdiction is secured by the power of the court over the res. As we have said, such a proceeding would be impossible were this not so, for it hardly would do to make a distinction between the constitutional rights of claimants who were known and those who were not known to the plaintiff, when the proceeding is to bar all. (Pennoyer vs. Neff, 95 U. S., 714, 727; The Mary, 9 Cranch, 126, 144.)"

There are many classes of cases where men may be deprived of their property and of their rights, without personal notice of the proceedings in which that may occur. For instance, in attachment cases, notice or service upon the defendant may be had by publication. (Pennoyer vs. Neff, 95 U. S., 714, 727.) So also in divorce proceedings, as well as the rights of claimants against estates of deceased persons, personal notice is not a prerequisite. Notice by publication may be had. Also unknown claimants or owners may be brought into court without personal notice in an action for the condemnation of private property for public use. There exists a multitude of cases in which personal service is not necessary and service by publication is sufficient.

The law, even before the Torrens Law, provided means by which title to land might be quieted "by notice by publication to all persons." (Hamilton vs. Brown, 101 U. S., 256, 274; Huling vs. Kaw Valley, etc., Co., 130 U. S., 559, 564; Parker vs. Overman, 18 Howard (N. Y.) 137; American Land Company vs. Zeiss, 219 U. S., 47; Arndt vs. Griggs, 134 U. S., 316; Perkins vs. Wakeham, 86 Cal., 580.)

Even before the Torrens Law was adopted, the states had the power and right to provide a procedure for the adjudication of title to real estate. The state had control over real property within its limits. The conditions of ownership of real estate in a state, whether the owner be a stranger or a citizen, are subject to its rules, concerning the holding, transfer, liability to obligations, private or public, and the modes of establishing title thereto; and for the purpose of determining these questions, it (the state) may provide any reasonable rules or procedure. (Clark vs. Smith, 13 Peters, 195; Barker vs. Harvey, 181 U. S., 481; Mitchell vs. Furman, 180 U. S., 402; Botiller vs. Domingues, 130 U. S., 238; Moore vs. Steinbach, 127 U. S., 70; Arndt vs. Griggs, 134 U. S., 316; American Land Company vs. Zeiss, 219 U. S., 47.)

The state possesses not only the power to determine how title to real estate may be acquired and proved, but it is also within its legislative competency to establish the method of procedure. (American Land Co. vs. Zeiss, 219 U. S., 47; Bertrand vs. Taylor, 87 111., 235; Title, Document, etc., Company vs. Kerrigan, 150 Cal., 208, 305; Perkins vs. Wakeham, 86 Cal., 580.)

The state, as sovereign over the lands situated within it, may provide for the adjudication of title in a proceeding in rem, or in the nature of a proceeding in rem, which shall be binding upon all persons known and unknown. (State vs. McGlynn, 20 Cal., 233; 81 Am. Dec, 118; Perkins vs. Wakeham, 86 Cal., 580; 21 Am. St. Rep., 67; McLaughlin vs. McCrory, 55 Ark., 442; 29 Am. St. Rep., 56; People's National Bank vs. Cleveland, 117 Ga., 908; People vs. Simon, 176 111., 165; 68 Am. St. Rep., 175; Quarl vs. Abbett, 102 Ind., 233; 52 Am. Rep., 662; Ruppin vs. McLaughlin, 122 Iowa, 343; Young vs. Upshur, 42 La. An., 362; 21 Am. St. Rep., 381; Tyler vs. Judges, 175 Mass., 71; 51 L. R. A., 433; State vs. Westfall, 85 Minn., 437; 89 Am. St. Rep., 571; 57 L. R. A., 297; Rohrer vs. Ader, 124 Mo., 24; Sandiford vs. Town of Hempstead, 90 N. Y. Supp., 76, 79, 97; Arndt vs. Griggs, 134 U. S., 316.)

If the state can provide for substituted service for the purpose of quieting title to real estate against an unknown resident, it may provide a reasonable method for securing substituted service against residents. The power of the state to provide methods of quieting title should not be limited to known persons. In order to make such a law valuable and effective to its fullest extent, it is necessary that it be made to operate on all interests and persons known or unknown.

Mr. Justice Holmes, in the case of Tyler vs. Judges (175 Mass., 71) in discussing this question, said: "If it (the procedure) does not satisfy the Constitution, a judicial proceeding to clear titles against all the world hardly is possible, for the very meaning of such a proceeding is to get rid of unknown as well as known claims—indeed certainty against the unknown may be said to be its chief end—and unknown claims cannot be dealt with by personal service upon the claimant."

Mr. Chief Justice White of the Supreme Court of the United States, in the case of the American Land Company vs. Zeiss (219 U. S., 47) said: "To argue that the provisions of the statute are repugnant to the due process clause (of the Constitution) because a case may be conceived where rights in and to property would be adversely affected without notice being actually conveyed by the proceedings is in effect to deny the power of the state to deal with the subject. The criterion is not the possibility of conceivable injury, but the just and reasonable character of the requirements, having reference to the subject with which the statute deals."

The court of appeals of the State of New York, in the case of In re Empire City Bank (18 N. Y., 199, 215) in speaking of the right of the state to prescribe in suitable cases for substituted service, said: "Various prudential regulations are made with respect to these remedies but it may possibly happen, notwithstanding all these precautions, that a citizen who owes nothing, and has done none of the acts mentioned in the statutes, may be deprived of his estate without any actual knowledge of the process by which it has been taken from him. If we hold, as we must, in order to sustain this legislation, that the Constitution does not positively require personal notice in order to constitute a legal proceeding due process of law, it then belongs to the legislature to determine in the particular instance whether the case calls for this kind of exceptional legislation, and what manner of constructive notice shall be sufficient to reasonably apprise the party proceeded against of the legal steps which are taken against him. (American Land Company vs. Zeiss, 219 U. S., 47; Title, Document, etc., Company vs. Kerrigan, 150 Cal., 289.)"

The only case cited by the appellants in support of their argument, is the case of the American Land Company vs. Zeiss (219 U. S., 47). In view of the facts and the decisions of the different courts which are cited in that case, it is difficult to understand how it is authority in support of the contention of the appellants here. The facts in that case are as follows :

Zeiss, on the 22d of August, 1906, commenced an action in the superior court of the county of San Francisco, alleging in substance that on the 18th and 19th days of April, 1906, a material part of the public records contained

in the office of the county recorder of the city and county of San Francisco was destroyed by fire; that on the 18th day of April, 1906, and at the time of the filing of the complaint, he was the owner and in the actual and peaceable possession of the parcels of land in controversy: that his estate, title, interest in and to said parcels of land, and each of them, was that of owner in fee simple, absolute, free from all encumbrances, liens, defects, claims or demands of any kind or nature whatsoever. Under these facts the plaintiff, Zeiss, prayed that he be adjudged to be the owner of and entitled to the possession of said described parcels of land in fee simple, and that no one else had any estate, right, title, interest or claim in or to the same, or any part thereof, either legal or equitable, present or future, vested or contingent.

Upon the presentation of the petition by Zeiss, a summons was issued and notice of the pendency of the action was published in certain newspapers, as was required by law. Notice was also posted upon the property, as required by the statute. No one having appeared and opposed the granting of the petition of the complaint, or claimed any interest in or lien upon the property described in the complaint, a default was ordered against all persons, and on the 19th day of December, 1906, a decree was entered in favor of Zeiss, adjudging that he was the owner in fee simple, absolute, and entitled to the possession of the land described in the complaint and that no other person had any right, title, interest, or estate in and to the same, or any part thereof, either legal or equitable, present or future, vested or contingent.

Nothing else seems to have transpired after said decree was issued in favor of Zeiss, until the 26th day of May, 1908, or one year and five months after the entry of the decree of the superior court, in the city and county of San Francisco. On that date (the 26th of May, 1908) an action was brought in the United States Circuit Court for the Northern District of California, in which the plaintiffs claimed title to the parcels of land, as owners in fee simple, absolute, which had theretofore been decreed to Zeiss. The plaintiff alleged that the decree issued by the superior court of the city and county of San Francisco was void and of no force and effect and was made and maintained without due process of law, and that said superior court, in said action and proceeding, never had any jurisdiction over the persons holding the title during such proceeding, and that said court did not have or obtain jurisdiction to divest the right, title, interest or estate of plaintiff. The complaint alleged that "Zeiss had no right whatever in said parcels of land, other than his right of possession and occupation." The bill further alleged that the plaintiffs had been at all times citizens and residents of California, not seeking to evade, but ready to accept service of summons and easily reached for that purpose; that, notwithstanding that fact, no service was made upon them nor did they in any way receive notice of the pendency of the action (Zeiss vs. All persons claiming any interest in or lien upon the real property herein described) ; nor did they gain any knowledge of the existence of the decree until more than a year after its entry. To the complaint the defendant, Zeiss, demurred.

Upon the issue thus presented, the Circuit Court of Appeals for the Ninth District certified the questions involved to the Supreme Court of the United States. The Supreme Court of the United States, after a careful analysis of the facts and of the law, in a very lengthy and instructive opinion (219 U. S., 47), decided each of the questions submitted by the Circuit Court of Appeals against the contention of the plaintiff and returned the cause to the court below.

The original action by Zeiss was brought to quiet the title to two parcels of land and for the purpose of registering his title to the same under an act of the legislature of the State of California, entitled "An act to provide for the establishment and quieting of title to real property in case of loss or destruction of public records." Said law is known as the McEnerney Law. It was intended by said act to provide a method whereby owners in possession of real estate, where records had been destroyed to such an extent as to make it impossible to trace a record title, might secure a decree in the courts which would furnish public, authenticated evidence of title. The special occasion for the law was the fact that practically all of the public records of title in several counties in the State of

California has recently theretofore been destroyed as the result of an earthquake and fire. Said law provided that whenever the public records in the office of the county recorder had been, or shall hereafter be lost or destroyed, in whole or in any material part, by flood, fire, or earthquake, any person who claims an estate of inheritance or have title in, and who has by himself or his tenants, or other persons holding under him, in actual and peaceable possession any real property in said county, may bring and maintain an action in rem, against all the world, in the superior court for the county in which said real property is situate, to establish his title, and to determine all adverse claims thereto.

The law further provides that an action shall be commenced by the filing of a verified complaint, in which he shall name the defendants as "all persons claiming any interest in or lien upon the real property herein described, or any part thereof." He was required to give in his complaint a particular description of the property. The law provided that upon the filing of the complaint, a summons or notice was required to be issued, containing the names of the court and the county in which the action was brought, the name of the plaintiff, and a particular description of the property involved, which notice was directed to "all persons claiming any interest in or lien upon the real property herein described, or any part thereof," as defendants.

The law further provided that said summons or notice should be published in a newspaper of general circulation in the county where the action was brought, at least once a week for a period of two months.

The law further provided that personal notice should be given to any person claiming an interest in the property or a lien thereon adverse to the plaintiff.

The law also provided that said summons or notice should be posted in a conspicuous place on each parcel of property described in the complaint, within fifteen days after the first publication of the summons or notice.

The said law further provided that upon the publication and posting of the summons and its service upon and mailing to the person, if any, upon whom it is herein directed to be specially served, the court shall have full and complete jurisdiction over the plaintiff and said property and of the person and every one claiming any estate, right, title, or interest in or to or lien upon said property, or any part thereof, and shall be deemed to have obtained the possession and control of said property, for the purposes of the action, and shall have full and complete jurisdiction to render judgment therein, which is provided for in the law.

In the case of the American Land Company vs. Zeiss, cited and relied upon by the appellants, the validity of said law was attacked and the legality of the title granted to Zeiss was impugned for the reason that the law was unconstitutional and void, and because the plaintiff had not received actual notice of the application of Zeiss to have his title quieted, under said law. The Supreme Court of the United States (219 U. S., 47) held, as has been above indicated, that the law was constitutional and that a compliance with the requirements of the notice provided for in said law was sufficient to give the court jurisdiction over the res and to enter a valid decree. There seems to be but little in the decision in the case of the American Land Company vs. Zeiss to support the contention of the appellants.

Considering that the Legislature of the Philippine Islands had full power to adopt the procedure provided for in Act No. 496, for the registration of the title of lands; and

Considering that the court in the original action followed strictly the procedure adopted by said law; and

Considering that there is no claim of fraud, actual or constructive, upon the part of any of the parties connected with said action, we are forced to the conclusion that the appellants here are not now entitled to have that judgment or decree of registration and certificate amended or set aside.

There remains another question, however, which the appellants have not discussed and which we deem of importance. It is the question of the right of the Land Court to correct an error of closure in a plan or of a statement contained in a certificate. A plan is prepared and is presented with the petition for the registration of a parcel of land. No opponents appear. No opposition is presented to the registration. All the steps in the procedure required by law have been taken. The land is registered. It is then discovered for the first time that by reason of a wrong direction given to one of the lines in the plan, said plan will not close—that if a wall were built upon the lines of the plan, one of the four corners of the wall would not meet. We believe that an error of that character may be corrected by the court, provided that such correction does not include land not included in the original petition. Upon the question whether the amended plan (p. 252, record) included more or different lands than were included in the original petition, we find the following statement made by one of the judges who ordered said plan amended. The statement is:

"At this stage of the proceedings and on this particular point nothing further is incumbent upon the court than to determine the property as it was adjudicated in this case.

"Therein no new portion was either added or subtracted, and this court finds that such should be the holding on this particular point." We have a further statement made by one of the judges, the Honorable Charles H. Smith, relating to the same question, in an answer presented by him to a petition for a writ of prohibition, presented by some of the appellants herein, to the Supreme Court. That petition for a writ of prohibition involved practically the same questions presented by the appellants here now. Upon the question whether or not additional lands had been included in the new plan (p. 252, record), Judge Smith, in answering for himself and his associates (Ostrand and Romualdez) said:

"Respondents deny that a new dividing line between the premises in question (premises of the plaintiff and appellant) was determined and established by an order of the court issued at the conclusion of said proceedings, but, on the contrary, respondents charge the truth to be that the dividing line between said properties was not changed but simply approved and so indicated upon the record title. For instance, the line between said properties beginning on the south side of the Escolta is exactly at the same point indicated in the original description and approved by the court; in other words, the premises in question of the said Maria del Consuelo Felisa Roxas y Chuidian have not been enlarged ; the boundary lines thereof have not been changed; the real descriptions of the properties have been left undisturbed; the adjoining land owned by the petitioners is undiminished, except possibly as to alleged easements claimed to have been created by the projection of some of the roofs of the petitioners' building over the aforesaid registered property of the said Roxas. That matter is settled clearly by the provisions of the last paragraph of section 39 of Act No. 496."

We called attention above to the fact that the petitioner alleged that the line A-B of her property ran S., 44° 30' W., a distance of 31.08 meters, while the plan accompanying said petition (see Exhibit A, page 35, ante) made said line to run S., 46° 30' W., a distance of 31.08 meters.

An examination of the certificate issued to the petitioner (see page 39, ante) also states that the line A-B runs S., 46° 30' W., for a distance of 31.08 meters. The record contains no explanation why the original plan (see Exhibit A, page 35, ante) did not conform to the description of the land given in the petition. That error, in our judgment, seems to have constituted the real difficulty with the closure of the plan. Under said conditions we are of the opinion that the Land Court is entirely justified in ordering the plan corrected for the purposes above indicated.

There is still another question involved in the case, which the appellants have not discussed, and that is the right of Maria del Consuelo Felisa Roxas y Chuidian to have her original certificate of registration corrected, for the purpose of showing that she was the owner of the buildings located upon the parcel of land in question. It will be remembered that in her petition presented January 12, 1906, she alleged that she was the owner of the parcel of land in question, together with the buildings thereon. No opposition was presented. No objection was made to the

registration of the land as described in her petition. The record shows no reason why the buildings should have been omitted in the certificate of registration. The omission must have been an error on the part of the clerk. We find that Act No. 496 contains an express provision for the correction of such errors. Section 112 provides that the registered owner may, at any time, apply by petition to have corrected any "error, omission, or mistake made in entering a certificate, or any memorandum thereon, or on any duplicate certificate." We think the petition presented by Miss Roxas for the correction of such original certificate was entirely within her right under the law. It might be claimed, and we believe that the proposition is sustained by law, that the registration of a parcel of land, unless the record contains something to the contrary, necessarily includes the buildings and edifices located thereon, even though they are not mentioned. Without relying upon that proposition of law, however, and in view of the petition of the plaintiff, it is hereby ordered that the original certificate be amended so as to include not only the land described in the original petition, but the buildings located thereon as well. With reference to the petition of the Masonic Temple Association of Manila, the record contains no sufficient reason for not granting the same.

Therefore, and in view of all of the foregoing, we are of the opinion that the judgment of the court below should be and it is hereby affirmed, with costs.

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

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