

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER, VS. LEONCIO ABAD ET AL., OPPONENTS. LUCIO ONGSIACO ET AL., OPPONENTS AND APPELLEES; JUAN AROMIN ET AL., OPPONENTS AND APPEL...

G.R. Nos. 22828 and 22829. March 10, 1925

Ponente: OSTRAND, J.

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OSTRAND, J.:

The present appeals are taken from a decision of the Court of First Instance of Nueva Ecija, in regard to lots Nos. 1914, 2047, 2078, 2402, 2441, 2608, 2609, 2814, 2815, 2816, 2817, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2847, 2848, 2851, 2852, 2853, 2898, 2942, 2943, 2955, 2956, 2957, 2977 and 2978 in cadastral case No. 18 of that province (G. L. R. O. Record No. 390) and lots Nos. 2080, 2081, 2082, 2083, 2084, 2440, 2813, 2958, 2959 and 2966 in cadastral case No. 19 (G. L. R. O. No. 391).

The only question before the court is whether the lots mentioned are situated within the limits of the land previously registered in the name of Marcelino de Santos in case No. 5550 of the Court of Land Registration and which constituted a part of the hacienda "Esperanza," situated in the Provinces of Pangasinan and Nueva Ecija. The registered title to said land now rests in the claimants Lucio Ongsiaco, Paz de Santos, Isidoro de Santos, Consuelo de Santos, Jose Mariano de Santos and Felipe de Santos according to transfer certificate of title No. 109 of the Province of Nueva Ecija.

At the hearing of the cadastral cases a very large number of persons claimed the lots in question alleging that they are situated outside of the boundaries of the tract registered in said case No. 5550 and that the claimants have acquired title to them by adverse possession. The Director of Lands also presented an opposition claiming that a considerable portion of the northeastern part of the land embraced in cadastral case No. 19 is not covered by the decree in case No. 5550 and is public land.

The court below found that lots Nos. 1914, 2047, 2078, 2402, 2441, 2608, 2609, 2814, 2815, 2816, 2817, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2847, 2848, 2851, 2852, 2853, 2898, 2942, 2943, 2955, 2956, 2957, 2977 and 2978 in cadastral case No. 18 and lots Nos. 2813, 2958 and 2959-B in cadastral case No. 19 are all included in the decree in said case No. 5550 and are the property of Lucio Ongsiaco et al. From this adjudication the claimants Juan Aromin et al. appealed.

The court further held that a triangular strip along the northeastern boundary of lot No. 2959 is outside of the land decreed in land registration case No. 5550 and declared this strip public land, designating it as lot No. 2959-A. From this portion of the decision Lucio Ongsiaco et al. appeal.

The appeal of Juan Aromin et al., is, in our opinion, entirely without merit. Taking advantage of the fact that the plan from which the land description in the decree issued in case No. 5550 was taken is grossly erroneous and gives the area of the land decreed as only 13,215 hectares, 51 ares and 34 centiares while the cadastral plan shows

that the area is nearly 15,700 hectares, these appellants have sought to prove that the discrepancy between the two plans is due to the fact that the cadastral plan embraces territory not included in the decree.

Inasmuch as in regard to boundaries and extent of lands in dispute, the monuments control courses and distances as well as the calculated area, and as the boundaries of the land decreed in case No. 5550 were carefully marked during the Spanish regime with substantial brick monuments which monuments were followed both in cadastral survey and in the survey for the registration in case No. 5550, there can be no question that, with the exceptions hereinafter noted, the land claimed by Lucio Ongsiaco et al., is the same land decreed in favor of Marcelino de Santos et al., case No. 5550. Considering the character of the monuments and the practical impossibility of secretly removing them or changing their position, the contention of the appellants Juan Aromin et al., that the cadastral surveyors in determining the lines of the survey simply followed the indications of the employees of Ongsiaco et al., is worthy of but little consideration.

The questions involved in the appeal of Ongsiaco et al., in regard to the disposition made by the court of lot No. 2959-A are not quite as clear as those of the other appeal, but considering the evidence as a whole, we can find no error in the judgment of the court below.

The parties agree that point M-3 on plan Exhibit H, is the northeast corner of the land. A short distance in a southeasterly direction from point M-3 there is an auxiliary monument, M-19a. In the cadastral survey, the surveyor in tracing the northeastern boundary line of the land ran a straight line from M-3 through M-19a prolonging the line to its intersection with the southeastern boundary line of the land, at which intersection no monument existed.

Shortly before the hearing of the case, surveyor Cruz of the Bureau of Lands was specially sent to make a careful investigation of this boundary. With the aid of the technical description accompanying the original application in expediente No. 5550, as well as the notice of the monumenting of the hacienda published in the old Manila Gazette in 1890, he succeeded in locating on the bank of the Benituan River a principal monument consisting of a molave post embedded in a block of brick and marked M-20 on plan Exhibit H. This monument was overlooked by the cadastral surveyors who, being guided exclusively by the auxiliary monument M-19a, gave the line in question a more easterly direction than would have been the case if they had discovered the principal monument M-20.

The Director of Lands maintains that the true boundary as described in the decree in case No. 5550 is a straight line from point M-3 to M-20, while the appellants Ongsiaco et al., contend that the line followed by the cadastral surveyors is the true line. In view of the fact that the latter line is based merely on an auxiliary monument while the line found by surveyor Cruz rests on a principal monument described in the notice of the monumenting of the hacienda "Esperanza" published in the Gazette in 1890 and apparently tallies with the plan accompanying the application for registration in case No. 5550, we are of the opinion that the contention of the Director of Lands is correct, that the line found by surveyor Cruz is the true line and that the triangular strip of land lying between the two lines was properly excluded by the court below.

The judgment appealed from is affirmed, with the costs of each appeal against the respective appellants jointly and severally. So ordered.

Johnson, Malcolm, Johns, and Romualdez, JJ., concur.

Villamor, J., did not take part.

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