

## FIRST DIVISION

[ G.R. No. 76371, January 20, 2000 ]

**MARIANO TURQUESA, ABRAHAM LALUGAN AND LAYAO, MANUEL MAGALA SUBSTITUTED BY HIS HEIRS, OTILIO DAMASEN AND SEGUNDINA DAMASEN, ANTONIO ESCALANTE, METODIO TULLAS, FLORA LABUGUEN AND JUANA LABUGUEN, LOURDES SINDON BAYUBAY, MANUEL MEDRANO AND JOSE MEDRANO, <sup>[\*\*]</sup> PETITIONERS, VS., ROSARIO VALERA AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

More than half a century ago,<sup>[1]</sup> private respondent applied for the registration of two parcels of land located in Barrio Pulot, Laguyan, Abra described in Plan PSU-119561 with a total land area of 232,908 square meters. The first lot (hereinafter referred to as Lot 1) has an area of 210,767 square meters whereas the other lot (Lot 2) has an area of 22,141 square meters. In support of her application, private respondent presented documents showing that when she was still single, she bought Lot 1 during the years 1929-1932 from Cristeta Trangued and the heirs of Juan Valera Rufino who were allegedly in possession thereof since the Spanish regime in the concept of owners and who declared it in their name for taxation purposes. From 1929, she continued possession of said land in the concept of owner and continued to pay the tax thereon in her name. Notices of the application for registration were published in the Official Gazette, with copies thereof sent to persons mentioned therein and posted in the proper places.

The Director of Lands together with petitioners and other persons<sup>[2]</sup> opposed the application of private respondent. These oppositors were excluded from the order of general default issued by the lower court on June 16, 1950.<sup>[3]</sup> In the course of the hearing, the oppositors (except the Director of Lands) aver that their lands were included in Lot 1 which private respondent sought to register in her name. In support thereof, they contend that the land embraced by Lot 1 at the time it was bought by private respondent is not the same land covered in her application for registration. To avoid confusion, oppositors moved for an ocular inspection in order to determine the correct boundary limits of the lands they respectively claim, however, the same was not allowed by the court *a quo*. For his part, the Director of Lands' opposition was denied for failure to substantiate his claim that the subject lands were part of the public domain. The opposition of the oppositors other than the herein petitioners were likewise denied for various reasons including failure to present their evidence.

After trial, in a decision dated April 23, 1956, the lower court disposed of the application for registration as follows:

In view of all the foregoing, the applicant Rosario Valera married to Juan Valera, a resident of Bangued, Abra, has proven that she has a registerable title to Lot 1, Psu-119561, with an area of 210,767 square meters as her exclusive property, subject to the encumbrance in favor of the Philippine National Bank in the sum of P1,000.00; and to Lot 2 in the same plan, with an area of 22,141 square meters, without liens or encumbrances, as conjugal partnership property with her husband, Juan Valera.

After this decision has become final, let the corresponding decree be entered and the corresponding title issue in accordance with law.<sup>[4]</sup>

Oppositors appealed to the Court of Appeals (CA) insofar only as Lot 1 is concerned, arguing, among others, that the trial court erred in not granting their motion for new trial and their demand for ocular inspection. On March 15, 1966, the Court of Appeals set aside the appealed decision and remanded the case to the lower court for further proceedings, and ordered the conduct of an ocular inspection. The dispositive portion of the CA decision reads:

WHEREFORE, the judgment appealed from is reversed and set aside. This case shall be remanded to the trial court for further proceedings which shall include an ocular inspection of the land applied with a view to determine its identity, location and boundary limits whether the latter have been included in Lot 1 of the applicant's plan to warrant their exclusion from the plan, or their registration in the names of the oppositors who have presented evidence in support of their claim. Thereafter judgment shall be accordingly rendered.<sup>[5]</sup>

In accordance with the CA directive, three commissioners were appointed by the trial court to conduct the ocular inspection. The commissioners found:

That the property sought to be registered under survey plan Psu-119561 was relocated and the extent and bounds of the portions claimed by the oppositors were pointed to by them personally or by their supposed representative, the results of which are clearly shown in the accompanying sketch plan marked as Annex "A" of their report by the corresponding names, area and dimensions.

That the survey of the claims was continued the following day, January 29, 1967.

#### OBSERVATIONS AND FINDINGS

1. The claims of Manuel Magala, Abraham Lalugan, and Layao, Juan Medrano and Eugenio Medrano as shown now in the sketch plan Annex "A" are not shown in the original survey plan Psu-119561;
2. That claims of Otilio Damasén, Nicolas Bigornia, Ricardo Bersamira, Bonifacio Brangan, Cristeta Medrano, Matias Turdil, Mariano Turqueza, Flora Labuguen, Cornelio Bayubay, Ponce Talape, and Metodio Tullar, appeared in the original survey plan Psu-119561 and likewise in sketch plan Annex "A" although three of these claims

bear different identifying names in the sketch Annex "A";

3. That out of the original area of 210,767 square meters in original survey plan Psu-119561, the remaining portion not subject of opposition as appearing in sketch plan Annex "A" is 69,683 square meters;
4. That the "Calle para Collago" which according to the decision of the Court of Appeals and is stoutly maintained until the present by the oppositors to be the extent or boundary of the property of the applicant on the South side is existing and still is the boundary on the South and on the Southeast side, as shown in the Sketch Plan, Exh. "A";

That the property of Francisco Santua abound also the applicant's property sought to be registered on the South sides, at present as was the case during the original survey.<sup>[6]</sup>

The oppositors filed an opposition to the commissioner's report, whereupon a second ocular inspection was ordered by the trial court. After the second inspection, the trial court, on August 28, 1967 again rendered judgment reiterating its original decision ordering the registration of the aforesaid Lot 1 of PSU 119561 with an area of 210,767<sup>[7]</sup> square meters in the name of private respondent. The judge made the following observations based on the ocular inspection:

The Commissioners and the Presiding Judge, upon their ocular inspection, found out a visible boundary on the South-east side of Lot 1 known as "Calle para Collago" which is represented in the relocation plan Exh. HH running from the intersection to Lagayan between points 22 and 21 down to point 18. This, in the opinion of the Court, is the extension of the "Calle para Collago" referred to by the applicant Rosario Valera as boundary exactly on the South but which was converted into ricefields by Francisco Santua. This circumstance now could explain the presence of Francisco Santua as boundary owner on the South which the parties stoutly maintained in the former proceedings that the "Calle para Collago" was on the South but which oppositors now repudiate claiming that the "Calle para Collago" is on the East. Taking a good view over Lot 1, it could safely be concluded that the existing "Calle para Collago" is more to the South than to the East.

With respect to the claim of the Damasens over Lot A mentioned in Exh. D which the Court inadvertently failed to pass upon, the Court has found that it is within the property of the applicant.<sup>[8]</sup>

The dispositive portion of the trial court's decision reads:

WHEREFORE, this Court reiterates its former decision ordering the registration of Lot 1 of Plan Psu-119561, Exh. D, with an area of 210,767 square meters in the name of applicant ROSARIO VALERA of Bangued, Abra, and a conjugal property with her husband Juan Valera of the same municipality. The encumbrance with the Philippine National Bank in the amount of P1,000.00 having already been settled (Exh. JJ-1) same shall no longer be annotated on the title henceforth to be issued.

Upon this decision becoming final, let the corresponding decree issue.

The applicant Rosario Valera is hereby directed to pay within seventy two hours from notice hereof the sum of P182.00 as fees for the commissioner Santiago Alejandro who made the relocation survey.<sup>[9]</sup>

The case was again appealed to the Court of Appeals (CA-GR. 40796-R) by the oppositors, some of whom are now the petitioners in this case.<sup>[10]</sup> They argue that the lower court erred in not excluding the areas they claimed as their own which were wrongfully included in Lot 1 but was ordered registered in private respondent's name. Disposing of the appeal, the CA ruled:

WHEREFORE, in view of the foregoing, with the modification that the registration of Lot 1 of appellees (*private respondent herein*) should be confined to the extent only as indicated in the sketch annexed to the Commissioner's report, Exhibit HH, and excluding therefrom the landholding of the oppositors, as indicated in the same sketch, the judgment of the trial court is hereby AFFIRMED. Without costs.

SO ORDERED.<sup>[11]</sup>

This decision became final and executory for which a corresponding entry of judgment was issued by the Court of Appeals.<sup>[12]</sup> Later, private respondent filed with the trial court a motion for the issuance of writ of possession over two lots respectively tenanted by Trium Donato and Rudy Donato which were likewise respectively claimed by Santiago Partolan (not an oppositor in the land registration case) and Crispin Baltar (one of the oppositors).<sup>[13]</sup> In an Order issued on September 14, 1981, the court *a quo* denied the motion.<sup>[14]</sup> When her subsequent motion for reconsideration was also denied in another Order dated November 25, 1981,<sup>[15]</sup> private respondent appealed to the then Intermediate Appellate Court (IAC) which reversed the said two orders and forthwith issued a decision with the following disposition:

WHEREFORE, PREMISES, CONSIDERED, the ORDERS appealed from are hereby REVERSED and judgment is hereby entered ordering:

1. The issuance of a WRIT OF POSSESSION in favor of applicant-appellant covering the landholding claimed by oppositor Crispin Baltar and tenanted by Rudy Donato;
2. Confirming the word "Landholding" in the dispositive portion of the decision in CA-G.R. No. 40796-R as singular and referring only to the landholding opposed by oppositors Segundina and Otilio Damasen as the only landholding excluded from lot 1; and
3. Ordering the issuance of the WRIT OF POSSESSION in favor of the applicant-appellant covering the landholdings opposed by the other oppositors who did not appeal the decision of the lower court dated August 28, 1967.