

Judgement of the Supreme Court of Justice of 6 November 2014, Civil Division, Section 1

The case under discussion focuses on a conflict of ownership on an estate. The plaintiff brought a declaratory action of ownership and settling of boundaries on an estate which their forebears had acquired and registered in the Land Registry. For its part, before the registration, the Public Administration defined the boundaries of that estate because it was located in woodlands included in the Public Register of Woodlands, with the estate of the plaintiff included within that perimeter.

The plaintiff saw their claims settled in the court of first instance, but the Provincial Court of Santander dismissed the claim, reversing the judgement of the court of first instance and allowing the appeal lodged by the Government of the Autonomous Region of Cantabria.

After that, the Supreme Court of Justice agreed to hear the appeal brought by the plaintiff, overruling the appeal court ruling and confirming that of the court of first instance, based on the following points:

(i) The Supreme Court of Justice explained that the mere inclusion of an estate in the Public Register does not constitute a title to property, but merely possessory presumption, i.e., the presumption that because the estate is included in the register it is public in nature, belonging to State-owned forest property and the public entity whose name appears.

- (ii) The Supreme Court of Justice continued by stating that, within a conflict of ownership, registration in the Land Registry takes precedence because that registration, under the principle of registration accuracy (according to which the owner who features in the registry is actively and passively legitimated as the true owner of the registered right), gives special protection to whoever registers, conferring their right to possessory recognition.
- (iii) The Supreme Court of Justice therefore concluded that, while the inclusion of a woodland in the Public Register of Woodlands only has administrative efficiency, giving the Administration mere possessory presumption and with it the obligation to prove ownership of the estate and its public nature if ownership is questioned, the plaintiff does have a possessory title, because the estate had been registered in the Land Registry prior to the Administration defining the boundaries.