6 Phil. 573

[G.R. No. 2146. November 01, 1906]

MANUEL TESTAGORDA FIGUERAS, PETITIONER AND APPELLANT, VS. THE COMMANDING GENERAL OF THE DIVISION OF THE PHILIPPINES, REPRESENTING THE UNITED STATES, RESPONDENT AND APPELLEE.

D E C I S I O N

ARELLANO, C.J.:

From a review of the evidence in this case on appeal it appears that the petitioner excepted to the judgment of the Court of Land Registration denying his petition to have a certain tract of land registered.

It further appears that the petition for registration was presented by Jose Figueras in behalf of Manuel Testagorda Figueras, exhibiting as evidence of ownership a title of composition or patent issued by the Spanish Government on the 21st of October, 1898; that the court considered it necessary to require additional proof and for this purpose examined three witnesses, to wit, the petitioner, the secretary of the provincial board of Iloilo, who signed the said patent issued by the governor of that province, and the member of the said board in charge of the composition of public lands according to the royal decree of the 13th of February, 1894; that the petitioner testified that his principal, Manuel Testagorda" Figueras, had not been in possession of the land prior to the date upon which the patent was issued, and that Roman Solis, who applied to the Spanish Government for the aforesaid patent, was the one who had been in possession of the land; that in view of this statement the court below received the testimony of Roman Solis, who testified that he had applied for a patent to this land prior to the year 189(i, Testagorda Figueras having made a similar petition about a year .later, and that he, Solis, transferred to him his right to have the said patent issued, his own petition being thereby suspended; that neither Testagorda Figueras nor Solis had been in possession of the land, but that the people had possession of the land whose houses were thereon and who were thereafter ejected therefrom; that Testagorda Figueras entered upon the possession of the land after he had obtained the patent in

question; and that in view of the fact that the land for which a patent had been granted had not been occupied or possessed by the petitioner, possession being a necessary requisite for the issuance of such patent, the court below found that the patent had been granted upon a false basis and held that it was, therefore, null and void. This is the reason why the Court of Land Registration refused to consider such patent sufficient to show that the petitioner had title to the land, the registration of which was sought.

It has, therefore, been laid down as a conclusion of fact that the land the ownership of which is sought to be registered has never been possessed by the petitioner.

We find no evidence or any provision of law upon which to set aside this conclusion. We can not conclude that the petitioner was in possession, and that this possession was established in the corresponding proceedings as existing prior to the issuance of the patent merely because the patent would not have been issued had not such possession been proved. This would be purely a presumption which can not be entertained in view of the testimony of the petitioner himself which we consider conclusive and which makes unnecessary any other proof. His admission is decisive in this case. He testified that there had not been possession of the land prior to the date upon which the patent was issued, and as there can be no composition without possession, it is to be inferred there was nothing upon which to base such composition, and consequently that the patent issued was absolutely void.

The petitioner alleged that Roman Solis had been in possession of the land for some time, but this Solis emphatically denied at the trial. In our opinion the court below had ample power to investigate and ascertain the truth of this allegation made by the petitioner in support of his petition. The power of the Court of Land Registration is more ample than that of any other court of record. It may require the introduction of additional evidence under the authority granted by the act creating it. It is not bound or limited by the evidence which the parties may see fit to introduce. It may, even against the stipulation of the petitioner and the contestant, proceed to secure the necessary evidence to convince itself of the right of ownership which is sought to be registered.

If this patent had been submitted to the courts of justice existing in these Islands under the Spanish sovereignty, the Government could have maintained an action for the recovery of the land on the ground that the patent had been unduly issued or that it was not authentic, and the petitioner could not have insisted upon its admission. The fiscal knowing of its existence could have opposed its admission as evidence of title or questioned its authenticity. And the same thing can be done today under the provisions of the Code of Civil

Procedure now in force. It is true that no evidence against the terms of a written contract is admissible except the document itself (sec. 285, par. 1), but it is none the less true that "this section does not exclude other evidence of the circumstances under which the agreement was made or to which it relates, or to explain an intrinsic ambiguity, or to establish its illegality or fraud. The term 'agreement' includes deeds and instruments conveying real estate and wills as well as contracts between parties." (Sec. 285, par. 2.)

The provincial board of Iloilo could have issued the patent in question on the 21st of October, 1898, provided the petition therefor had been filed prior to the 17th of April, 1894, and renewed before the 17th of October, 1894, when the period of six months provided in article 5 of the royal decree of February 13,1894, expired, the six months to be counted from the promulgation and publication of the said decree in the Official Gazette of Manila, which was on the 17th of April of the said year. Article 7 of the said royal decree provided that there should be published, and there was published, in the Official Gazette of Manila, sufficient summaries as to the patent for which application had, been made in each province or district, and we have been unable to find therein either the name of Manuel Testagorda Figueras or that of Roman Soils. This provision fixing a period within which a former system of procedure would become inoperative was necessary. Article 4 of the above referred to royal decree provided: "There shall revert to the State the title to all public arable lands which might have been capable of composition under the royal decree of June 25,1880, but the composition of which has not been applied for at the time of the promulgation of this decree in the Official Gazette of Manila. No claim in regard to such lands which may be made by those who could but did not apply for their composition until the aforesaid date shall be entertained." Article 5 provided as follows: "Those whose applications for composition are still pending must renew the same within the nonextendibie period of six months from the publication of this decree in the Official Gazette of Manila. Any application not renewed within the aforesaid period by the person who presented it or his assignees shall be considered of no effect, and the provisions of the foregoing article shall be applied to the land to which such applications referred."

If the petitioner in this case is nothing but the assignee of Roman Solis who presented the application to the provincial board of Iloilo, as stated by the witness, Jose Figueras, and as insisted upon by the appellant in this court, we have to consider the said petition as though it had been made by Solis and admit what the latter said, to wit, that he presented the petition "about the year 1896." It has thus been shown that there was no possible composition, and so explained why the name of Roman Solis did not appear in the summaries of petitions published in the Official Gazette of Manila whereby the Government

can, even now, ascertain for itself what petitions were presented in due time—that is to say, prior to the 17th of April, 1894.

After this date those in possession of land still had another means of obtaining title to arable land, to wit, the possessory information proceedings referred to in article 19 of the said royal decree. But the petitioner in this case could not avail himself either of this or the former means prescribed by law, because as a matter of fact he was never in the physical possession of the land except after the 21st of October, 1898—that is to say, subsequent to the issuance of the patent in question, which, rather than a title of composition, should be termed a gratuitous transfer.

For the reasons hereinbefore set out we are of the opinion that none of the errors assigned on this appeal were committed by the court below, which errors are mainly based upon the supposition that that court could not have required on its motion, as it appears it did, parol evidence to be introduced in connection with the admission of the patent offered in evidence, the reversion to the State of all the land therein described, and the cancellation of the inscription of the same made in the Registry of Property. The court had the power to make such investigation and its conclusions were such as would necessarily follow from the absence of evidence tending to show that the land in question which was presumed to be public land had legally passed into the hands of private individuals.

We accordingly affirm the judgment of the court below in all respects, with the costs of this instance against the appellant. After the expiration of twenty days from the date hereof let judgment be entered in accordance herewith and ten days thereafter the record be remanded to the court below for execution. So ordered.

Torres, Mapa, Johnson, and *Carson, JJ.,* concur.

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