

Title:

Cebu Oxygen & Acetylene Co., Inc. v. Judge Pascual A. Bercilles, et al., G.R. No. L-41030

Facts:

1. **Original Utility of the Land:** The parcel of land in question was originally a part of M. Borces Street, Mabolo, Cebu City.
2. **Abandonment Declaration:** On September 23, 1968, the Cebu City Council passed Resolution No. 2193 (approved on October 3, 1968) declaring the terminal portion of M. Borces Street as an abandoned road because it was not included in the City Development Plan.
3. **Authorization for Sale:** On December 19, 1968, the City Council passed Resolution No. 2755 authorizing the Acting City Mayor to sell the abandoned land through public bidding.
4. **Award to Highest Bidder:** Cebu Oxygen & Acetylene Co., Inc. (Petitioner) was the highest bidder, and on March 3, 1969, the Acting City Mayor executed a deed of absolute sale to the petitioner for a consideration of P10,800.00.
5. **Application for Registration:** Based on the deed of sale, the petitioner applied to the Court of First Instance (CFI) of Cebu for the registration of their title over the land.
6. **Motion to Dismiss:** On June 26, 1974, the Assistant Provincial Fiscal of Cebu filed a motion to dismiss arguing that the property sought to be registered was a public road intended for public use and part of the public domain, thus non-registrable.
7. **CFI Ruling:** After hearing the parties, the CFI on October 11, 1974, dismissed the petitioner's application for registration.
8. **Petition for Review:** Unsatisfied with the CFI's decision, the petitioner filed for a review with the Supreme Court.

Issues:

1. **Authority to Declare a Road Abandoned:** Whether Section 31, paragraph 34 of the City Charter of Cebu City (Republic Act No. 3857) grants the City of Cebu the authority to declare a road abandoned.
2. **Post-Abandonment Status of the Road:** Whether the declaration of the road as abandoned converts it into patrimonial property of the City, which may then be subject of ordinary contracts like sale and subsequent registration.

Court's Decision:

1. **Authority of Cebu City under its Charter:**
 - **Section 31, Paragraph 34 Analysis:** The Supreme Court held that under Section 31 of

the Revised Charter of Cebu City, the City Council has explicit powers to close any city road, street, alley, boulevard, avenue, park, or square. The Charter also states that property withdrawn from public servitude can be used or conveyed for any lawful purpose.

- **Citing Favis Case:** The Court cited *Favis vs. City of Baguio*, affirming that the City Council has the discretion to determine the necessity of public use of a property and that such discretion is generally not subject to judicial interference unless there is clear evidence of abuse, fraud, or collusion.

2. **Status of Property After Abandonment:**

- **From Public Domain to Patrimonial Property:** Once the road property is no longer intended for public use, per Article 422 of the Civil Code, it becomes patrimonial property. This transition makes it subject to commerce and thus registrable.

- **Validity of Sale:** The sale to the petitioner was found valid as it was performed under the authorized powers of the city council and acting city mayor, rendering the petitioner's title over the lot valid and registerable.

Resolution: The Supreme Court set aside the October 11, 1974 order of the CFI and ordered the continuation of the hearing for the petitioner's application for registration.

Doctrine:

- **Public Property Transition:** Property of public dominion, when no longer intended for public use or service, becomes patrimonial and part of the public property that can be used or conveyed as private property.

- **Discretion of City Councils:** City councils have broad discretion in declaring public properties as abandoned. Judicial interference is unwarranted absent clear proof of abuse or fraud.

Class Notes:

- **Key Elements:**

- Authority to declare public streets abandoned (City Charter)

- Transition of public property to patrimonial property (Civil Code Art. 422)

- Registerability of patrimonial property

- **Principles:**

- Broad discretion of city councils in public property management

- Judicial non-interference in administrative discretion barring abuse or fraud

- **Statutory Provisions:**

- Republic Act No. 3857, Section 31, Paragraph 34

- Civil Code of the Philippines, Article 422

Historical Background:

- **Context:** This case represents the dynamic interplay between municipal authority and property rights, illustrating how infrastructure unused or unnecessary for public utility may be converted and integrated into the commerce of private individuals, thus alleviating the rigid distinction between public and private domains in law. The ruling underscores the discretionary powers committed to local governance within the framework of managing city development and resources.