

ADOLFO C. NAVARRO, PLAINTIFF-APPELLEE, VS. THE CITY OF ZAMBOANGA, DEFENDANT-APPELLANT.*G.R. No. L-24493. August 14, 1968*

Ponente: CONCEPCION, C.J.

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Appeal by the City of Zamboanga—hereinafter referred to as the defendant—from a decision of the Court of First Instance thereof, sentencing said City to pay to plaintiff, Adolfo C. Navarro, the sum of P9,765 with interest thereon, at the legal rate, from the time of the filing of this case until fully paid, in addition to the costs.

Navarro instituted this action, on July 13, 1950, to recover said sum of P9,765, as the value of Subdivision Lot 861-A of the Cadastral Survey of Zamboanga, which had been taken in 1930 by the Municipality of Zamboanga, now City of Zamboanga, and converted into a road—formerly Buenavista St. Extension, now Governor Agustin L. Alvarez Avenue—as well as the sum of PI 1,425, as rentals for the use thereof since 1930.

It is conceded that said Lot was part of a bigger one, covered by original certificate of title No. RO-(1280), dated December 2, 1912, in the name of plaintiff's father, the deceased Basilio Navarro; that Transfer Certificate of Title No. T-2508, covering said lot, was issued to plaintiff herein on April 21, 1949; and that there is no annotation, on either certificate of title, of any right, title or interest in and to said lot in favor of defendant herein.

The latter had set up in its answer two (2) defenses, namely: (1) that Basilio Navarro had donated said property to the defendant; and (2) that plaintiff's action is barred by the statute of limitations. Neither defense was sustained by the lower court, which likewise found plaintiff's claim for rentals untenable. Defendant insists, in its brief, on its aforementioned defenses.

It maintains that the lot in question had been donated thereto by Basilio Navarro, because:

(1) Pursuant to Section 906 of the Manual of Instructions to Treasurers, "no road construction shall be undertaken until the right of way agreement has been secured and properly executed on behalf of the Government";

(2) By resolution, approved in July, 1931, the provincial board of Zamboanga authorized the Provincial Treasurer to revert from the balance for the construction of the Buenavista St. Extension the amount necessary for another specified project, the maximum estimated cost of which was P1,300;

(3) According to a letter of Cesar C. Climaco, as secretary of the Provincial Board of Zamboanga, to Frank W. Redding, dated May 11, 1949, one James Wilson had informed the writer that he (Wilson) was present at a conference, held in 1932, between the Provincial Governor of Zamboanga and the owners of the lots taken for the construction of said road; that said owners, including Basilio Navarro and said Mr. Redding, had willingly and readily donated their respective lots to the Government; and that the corresponding right of way agreement had been duly executed by said land owners and the Government;

(4) According to Redding's reply to Climaco, dated May 25, 1949, it was pretty hard for him (Redding) to

remember the details of the conference aforementioned, although he remembered having donated and signed a Deed of Gift of his land to the Province of Zamboanga, and it was his belief, at the same time, "that the other two (2) owners"—one of them, presumably, Basilio Navarro—"did likewise."

It should be noted, however, that neither James Wilson nor Cesar Climaco nor Frank Redding was placed on the witness stand. Insofar as plaintiff herein is concerned, their statements in the aforementioned communications are hearsay. Moreover, Redding merely expressed, not his personal knowledge, but his belief as to what other owners—without naming them—had done. In fact, the documentary evidence introduced by the defendant shows that it does not know whether Navarro's land had been acquired by purchase, by donation or by right-of-way, although officers of the Government believe it must have been acquired by one of these means, before the construction of the road. The reversion or transfer of some of the funds originally intended for the Buenavista St. Extension to some other project does not necessarily bolster up defendant's pretense, considering that the transfer referred to a very small part (not exceeding P1,300) of said funds and that it may have been made possible by the donation of the property of Frank Redding.

Upon the other hand, said hearsay evidence and the presumption of regularity or compliance with Section 906 of the Manual of Instructions for Treasurers are offset by the fact that no annotation was made, in the certificate of title of Basilio Navarro, of any sale or donation of the lot in question or of the grant of a right of way thereon; that such sale, donation or grant, if any, would have been set forth in a public document, and annotated on said certificate; and that no attempt appears to have ever been made to register said document or make said annotation on the certificate of title of either Basilio Navarro or his son, plaintiff herein. It is clear, therefore, that the donation allegedly made in favor of the defendant has not been satisfactorily established.

The defense based upon the statute of limitations of actions is manifestly untenable, the property under consideration being registered under the Torrens System, and hence, not subject to prescription.[1]

WHEREFORE, the decision appealed from should be as it is hereby affirmed, with costs against defendant-appellant, the City of Zamboanga.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Judgment affirmed.

[1] 'Alfonso v. Pasay City, 106 Phil. 1017; Herrera v. Auditor General, 102 Phil. 875; Lopez v. Auditor General, L-25859, July 13, 1967.

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