

C. N. HODGES, PETITIONER, VS. CITY OF ILOILO, ET AL., RESPONDENTS.

G. R. No. L-17573. June 30, 1962

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari from the decision of the Court of Appeals in CA-G. R. No. 18973-R, affirming that of the Court of First Instance of Iloilo in Civil Case No. 1840 instituted by the now petitioner C. N. Hodges against the City of Iloilo to recover possession of Lots Nos. 820, 821-A and 924 of the Cadastral Survey of the latter, the amounts paid by him as real estate taxes on said lots, and damages.

After due trial, the court of origin rendered judgment, dismissing the complaint but ordering the City of Iloilo to pay Hodges the amount of P33.84 erroneously collected as real estate taxes on lots 820 and 821-A from 1945 to 1949, plus 6% interest per annum from 1945 up to complete payment thereof. Hodges appealed to the Court of Appeals with the result already stated above.

The facts of the case, as found by the Court of Appeals, are as follows:

"* * * sometime prior to October 1911, the then municipality of Iloilo (now Iloilo City) acquired through extrajudicial negotiations portions of bigger lots adjoining three of its streets, i.e. Marina (now Rizal) Street, P. Gomez Street, and Ortiz Street, for the purpose of widening them. The portion acquired to widen Marina (now Rizal) Street was formerly part of a lot belonging to Walter Smith, and those acquired to widen P. Gomez and Ortiz Streets were formerly part of a bigger parcel belonging to Federico Ortiz.

"For reasons not disclosed by the records, the then municipality of Iloilo neglected to claim these lots when they were surveyed during the period October 1911 to August 1912 under the Cadastral Act, and to take in the corresponding cadastral proceedings the necessary action to have them registered in its name. As a consequence, notwithstanding that said lots already formed part of the streets of that municipality prior to 1911, they were surveyed, that portion acquired to widen Marina (now Rizal) Street, in the name of Walter Smith and designated as Lot No. 924, and those acquired to widen P. Gomez and Ortiz Streets, in the name of Federico Ortiz and designated as Lots Nos. 820 and 821-A, respectively, and they were registered together with the main lots, the first, in the name of Walter Smith, and the last two, in the name of Federico Ortiz. The main lots from which these small lots were segregated changed hands later on, and as was to be expected, the latter were included in the deeds of conveyance and in the certificates of title issued to the respective subsequent owners. Of these subsequent owners, plaintiff C. N. Hodges was the last. (See Transfer Certificates of Title Nos. 12032 and T-4065, Office of the Register of Deeds for the province of Iloilo).

"On November 27, 1940, the plaintiff addressed a letter to the mayor of Iloilo City asking for the payment of the purchase prices of the lots, and beginning the year 1945 down to 1949 he paid annually the real estate taxes due thereon which amounted to the total of P33.84. That request was reiterated in three other letters dated October 10, 1946, August 14, 1947, and October 17, 1949. The demand was ignored. Thereupon, on March 2, 1950, the plaintiff wrote the defendant another letter demanding that the lots in question be delivered to him, and that the City pay to him for the use and occupation of the premises a monthly rental of P1.00 per square

meter from December 19, 1936. This demand was likewise ignored." (*Italics supplied*)

Petitioner questions the ruling of the Court of Appeals to the effect that because petitioner (who acquired the lots in question by purchase in the year 1935 or 1936, and to whom Transfer Certificates of Title Nos. 12032 and T-4065 were issued) and his predecessors in interest had allowed respondent's claim of ownership over, and possession of the three lots aforesaid to remain unquestioned for over. 40 years, he is now barred from recovering their possession by reason of laches and prescription. This, petitioner asserts, is an indirect way of holding that a certificate of title acquired under the provisions of Act 496 is subject to prescription. Such ruling—he further claims—gives rise to the anomalous situation where title to the land remains in the registered owner but its possession is vested in an adverse possessor. Lastly, petitioner contends that because the respondent City of Iloilo had been collecting land taxes from him for the three parcels in question, it is now in estoppel to claim ownership thereof.

The facts found by the Court of Appeals show conclusively that the lots in question formed part of the public streets of the City of Iloilo (formerly municipality of Iloilo) even prior to the year 1911. It is clear, therefore, that the principle governing property of the public domain—which is similar in character—applies to them (*Viuda de Tantoco vs. Municipal Council of Iloilo*, 49 Phil., 52-55). That properties dedicated to public use—such as streets and public plazas—are beyond the commerce of man, is generally recognized (*Cavite vs. Roxas*, 30 Phil., 602). In *Director of Lands vs. Roman Catholic Bishop of Zamboanga*, 61 Phil., 645, we held that public plazas—which are analogous in character to public streets—are not susceptible of registration in the name of any branch of the State. This merely reaffirmed our earlier ruling in *Nicolas et al. vs. Jose et al.*, 6 Phil., 589, where we said that "the land in question * * * being dedicated to public use" is not subject to inscription by a municipality, such public streets not being its patrimonial property but destined to public use. If a municipality or any other branch of the State may not register a public street or a public plaza dedicated to public use, a fortiori a private individual may not validly accomplish such registration.

We are not unmindful of the rule that, generally and in the absence of fraud, the owner of property brought under the Torrens system is none other than the person in whose favor the certificate of title has been issued, but Section 39 of Act 496, in defining the scope and efficacy of Torrens titles, establishes certain exceptions which the force or effectiveness of such titles does not reach or affect, among them being roads and highways. Under this provision it seems clear that the registration of a public street in the name of a private person is ineffective. As a matter of fact, in *Ledesma vs. Municipality of Iloilo*, 49 Phil., 769—a case very similar to the one before us—we held that because the lots involved therein were part of public streets, the persons in whose names the original and subsequent certificates of title were issued did not become the owners of said lots and were not entitled to recover their value or damages from the City of Iloilo.

Lastly, even equity is against petitioner. It is obvious from the facts of the case that he acquired the properties in question by purchase long after they had been made part and parcel of two public streets of the City of Iloilo. As a purchaser he should have known what he was buying. Having purchased something that was beyond the commerce of man, he has no right to recover the lots in question nor to be paid their value.

Wherefore, the decision appealed from is affirmed with costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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