

**MUNICIPALITY OF SAN CARLOS, PANGASINAN, REPRESENTED BY
MAYOR LUIS G. CAYABYAB, PETITIONER, VS. HON. JESUS P. MORFE,
JUDGE OF THE COURT OF FIRST INSTANCE OF PANGASINAN,
DIRECTOR ...**

G. R. No. L-17990. July 24, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Original action for mandamts to compel respondent, Hon. Jesus P. Morfe, as Judge of the Court of First Instance of Pangasinan, to allow petitioner, the Municipality of San Carlos, Pangasinan, to intervene in Civil Case No. 13788 and in Cadastral Case No. 60 both of the Court of First Instance of said province. Shortly after the filing of the petition herein, and as prayed for therein, we issued a writ of preliminary injunction restraining said court from resuming the hearing of said cases, which had begun prior thereto, until further orders from this Court.

This case refers to Lot No. 986 of said Cadastral Case No. 60, G.L.R.O. Rec. No. 1437, which had been pending before the Court of First Instance of Pangasinan even before the war in the Pacific. In February 1960, Mariano Austria filed therein an answer claiming a portion of said lot. No other party has claimed it, apart from petitioner therein, the Director of Lands, in said cadastral case.

It appears that on October 6, 1958, several persons, surnamed Bugayong, Agbuya, Padian, Romero and Signo, instituted Civil Case No. 13788 of said court against the Director of Lands, Adela de la Cruz, Pedro Lee and Mariano Austriar alleging, substantially, that Lot No. 986 formerly belonged to Pedro Agbuya y Guzman and Antonio Agbuya y Cabrera, who died in 1895 and 1902, respectively; the plaintiffs are the descendants and heirs of said deceased, and, hence, the owners of the aforementioned Lot No. 986; that plaintiffs and their predecessors in interest had been in possession thereof continuously, openly, peacefully and publicly from 1891 to 1949, when the Director of Lands leased a portion of said lot, on its southern part, to Adela de la Cruz—an alleged dummy of a Chinese, Pedro Lee—and another portion to Mariano Austria; that in 1951 the latter constructed on the portion leased to him a two-story building of strong materials and a gasoline station; and that the Director of Lands was about to act in the approval of Austria's lease application covering the entire Lot No. 986. Plaintiffs in said Civil Case No. 13788 prayed, therefore, for a decision declaring them owners of Lot No. 986, and ordering, inter alia, the cancellation of the lease contracts in favor of "Adela de la Cruz or Pedro Lee, and Mariano Austria", the removal of their buildings or improvements on said lot, the delivery of the possession thereof to them (plaintiffs) and the appointment of a receiver.

In due course, the defendants filed their respective answers. Pedro Lee disclaimed any and all interest in and to Lot No. 986. The other defendants denied the main allegations of the plaintiffs with respect to their alleged possession and title and that of their predecessors, and alleged that said lot is a public land belonging to the State, apart from pleading the statute of limitations, and setting up a counterclaim. The Director of Lands further alleged the pendency of another action, between the same parties and for the same cause, and that Austria's sales

application had been approved after appropriate proceedings without any opposition on the part of the plaintiffs.

On motion of the plaintiffs in said Civil Case No. 13788, the hearing thereof and that of Cadastral Case No. 60, as regards Lot No. 986, was held jointly. However, before the completion of the evidence for said plaintiffs, the Municipality of San Carlos, Pangasinan, hereinafter referred to as the petitioner, filed a motion for intervention and admission of a complaint in intervention attached thereto. The motion having been denied, petitioner filed a motion for reconsideration and to lift the order of general default in Cadastral Case No. 60, and for the admission of an amended complaint in intervention attached to said motion, with the same unfavorable result. Hence, the present action for mandamus.

Such action is devoid of merit, Petitioner's alleged right to intervene is predicated—according to the complaint in intervention attached to its motion to intervene—upon the theory that Lot No. 986 is "part and parcel of the public plaza" of the Municipality of San Carlos, and that the latter is, as an alleged consequence thereof, its "true and legal owner". But, this conclusion does not follow from the premise that said lot is part of the public plaza. As correctly adverted to in the order of the lower court denying said motion, the petitioner does not claim that Lot No. 986 had been granted thereto by either the Spanish Government or that of the Philippines. As alleged part of a public plaza, said lot is, at best, a public land belonging to, and, subject to the administration and control of, the Republic of the Philippines, and petitioner has no right to claim it as its patrimonial property. Whatever right of administration petitioner may have exercised over said plaza prior to 1949 was, not proprietary, but governmental in nature. It did not exclude the national government. On the contrary, it was possessed on behalf and in representation thereof, the municipal government of San Carlos being, in the performance of its political functions, a mere agency of the Republic, acting for its benefit. This was, in effect, admitted by petitioner for, in the amended complaint in intervention attached to its motion for reconsideration, it no longer alleged ownership over Lot No. 986. It is thus clear, that petitioner has no property right or any right in rem in and to said lot and that the lower court, had, therefore, no duty to allow petitioner's intervention, particularly considering that the Director of Lands, who represents the interest of the national government in said lot, is a party in Cadastral Case No. 60 and in Civil Case No. 13788.

Wherefore, the petition herein is hereby dismissed, and the writ of preliminary injunction issued by this Court dissolved, with costs against the petitioner. It is so ordered.

Bengzon, C. J., Padilla, Labrador, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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