

**THE MUNICIPALITY OF TIGBAUAN, PETITIONER AND APPELLEE, VS.
THE DIRECTOR OF LANDS, OBJECTOR AND APPELLANT.***G.R. No. 11095. December 16, 1916*

Ponente: ARAULLO, J.

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In representation of the municipal corporation of Tigbauan, Province of Iloilo, the president of said municipality applied for the registration in the property registry of a tract of land situate within said town, barrio of Supa, and composed of seven parcels described in the application and the plans presented therewith. The application was based on the claim that the municipality had acquired the land by continuous possession since time immemorial, and was opposed by the Director of the Bureau of Lands, through the Attorney-General in representation of the Government of the Philippine Islands, in so far as concerned the registration of the parcels Nos. 1, 6, and 7, on the ground that the first of these was a public square in the public use of said municipality, and that the other two were property of the Government of the United States under the control and administration of the Government of the Philippine Islands.

The applicant withdrew in favor of the Insular Government its application for the registration of the parcel No. 1, as being a public square of the municipality of Tigbauan, but maintained its claim with respect to the other two parcels, Nos. 6 and 7. The Director of Lands, in representation of the Government, maintained his also. After trial and the introduction of evidence by both parties, the Court of First Instance of Iloilo on April 14, 1915, rendered judgment (subsequently supplemented by an order of the 16th of the same month) in which he held that the applicant was entitled to the adjudication and registration of the parcels Nos. 6 and 7, together with their respective improvements, and disallowed the adverse claim of the Director of Lands, represented by the Attorney-General, in respect to these same parcels. The objector excepted to this judgment and asked for its annulment and a new trial on the grounds that the judgment and order were contrary to law and to the rule laid down by this Supreme Court in the case of *Municipality of Tacloban vs. Director of Lands* (18 Phil. Rep., 201), and were unsupported by the evidence.

This motion for a new trial was overruled, the court holding that, in adjudicating the parcels Nos. 6 and 7 to the applicant municipality, he had taken into account sections 38 and 41 of the Code of Civil Procedure, relative to prescription. The objector excepted to this ruling and appealed the case to us, through the proper bill of exceptions. He alleges that the trial court erred in applying to said lots or parcels Nos. 6 and 7 the provisions of sections 38 and 41 of the Code of Civil Procedure, which regulate prescription, and in denying on this account a new trial; and that it likewise erred in decreeing the adjudication and registration of said parcels in favor of the applicant disallowing the adverse claim filed in respect thereto.

In the applicant's plan, Exhibit A (record, p. 36), and in the one containing a drawing of said two parcels Nos. 6 and 7, there is a note which reads thus:

"The lands around these parcels are public lands. The names of the persons appearing on (the plan of) these

parcels are those of the present occupants of the same."

From the testimony of the municipal president of Tigbauan, Constantino B. Benedicto, and from that of a resident of this same municipality, Francisco de Paula Tina, the former 42 and the latter 56 years of age, it appears that, since the time of the Spanish Government, the municipality was wont to gather cane for its own use from the canebrakes growing on said two parcels of land; that it had subsequently planted thereon cañas espinas, which were already yielding product at the time this testimony was given (March, 1915); and that these witnesses had known of these facts ever since their early childhood. They further testified that the municipality's possession of the parcels of land in question had been continuous, and that no one had opposed the same or claimed any right, title or interest in said land. The first of these witnesses, Benedicto, designated the boundaries of the parcel No. 6 as follows: On the north, Francisco Gotera; on the east, Paulo Totay; on the south, Ignacio Totay; and on the west, Benito Totay. The boundaries of the parcel No. 7 as being: on the north, public lands; on the southeast, Ignacio Totay; on the southwest, Nicolas Guimbal and public lands; and on the northeast, Francisco Garda.

There is no proof that said parcels were private property at any time prior to the possession mentioned by the two above-named witnesses. They are surrounded by public lands, as shown by the plan presented by the applicant, and the persons whom one of these witnesses designated as adjacent property owners are mere occupants of the lands situated around the parcels, as also so stated in the plan itself.

Said parcels are public or government land, as shown by the evidence. It was neither established in the record that this land had been granted by the Government to the municipality of Tigbauan to form a part of its municipal assets or estate; nor that there was erected thereon any building belonging to the municipality and intended for public service, such as might induce the presumption that the land had been granted to the municipality; nor that the latter had used these parcels for recognized public purposes. Therefore, under the rule laid down by this Supreme Court in several decisions, among others the case of *Municipality of Tacloban vs. Director of Lands* (18 Phil. Rep., 201), it is evident that the applicant municipality cannot be held to be the owner of said two parcels of land or to be entitled to enter them in its name in the property registry.

In the decision above cited the following considerations appears:

"The mere fact that a municipality continued to collect revenues or rentals from the residents who occupy any parcel of land comprised within its district is not proof that the said municipality is the proprietor of such realty; at the most, it might be considered to be a usufructuary of the land in question, but without the right to enter it in the property registry.

"The benefit granted by section 54 of Act No. 926, for the purpose of fostering agriculture and increasing the wealth of the country, can not be deemed to be granted, according to economic principles, to municipal corporations which, on account of their special conditions, the idiosyncrasy and character of the functions which they exercise, and, because of the administrative mission which they have to fulfill in the name of the Government and in representation of the people who elected them, can not engage in agriculture and other industries nor can they attend to the administration of agricultural land and give particular attention to strictly private business, without serious detriment to the interests of the community."

In another decision of this Supreme Court, in the case of *Municipality of Luzuriaga vs. Director of Lands and Roman Catholic Bishop of Jaro* (24 Phil. Rep., 193), cited in the aforementioned decision, and also in the case of *Municipality of Catbalogan vs. Director of Lands* (17 Phil. Rep., 216), we said:

"It is apparent from these quotations that, as we have said before, in order that the municipality may rely upon a presumed grant from the State in its favor, the land concerning which the grant is to be presumed must have been used by the municipality for the purposes specified in said quotations, namely, to meet a public necessity, and therefore must be land which would have been originally granted by the State for such purposes. In other

words, the lands susceptible of this presumption cannot be agricultural or communal lands; they must be lands which the municipality itself can exclusively own, i. e., they must be lands used to meet a public necessity."

The mere fact that during many years the municipality of Tigbauan has been cutting cane from the cane brakes which have been growing on said two parcels of land from the time of the Spanish Government, and the further fact that it subsequently planted thereon caña espina trees now yielding product, do not prove that the municipality is the owner of these parcels, but only that it has been enjoying their usufruct, which does not give it the right to have them entered as its own in the property registry.

As the property in question is agricultural land, aside from the possible presumption that the Government might have granted it to the applicant municipality to enable this latter to meet public needs, it cannot be understood, in accordance with the holding made by this court in the first of the decisions aforesaid, that this corporation was accorded the benefits allowed by Act No. 926, section 54, to wit, those of applying to the Court of Land Registration for the confirmation of its claim of alleged right in said parcels and for the issuance of a certificate of title therefor; and consequently neither may said municipality, in order to obtain said title, allege the right of prescription provided for in sections 38 and 41 of the Code of Civil Procedure, for section 55 of Act No. 926 clearly prescribes that all persons claiming title to government lands who do come not within the classes specified in the section 55 are excluded from the benefits of Chapter VI of said Act which comprises these two sections.

On the other hand, pursuant to Act No. 648 of the Philippine Commission, the Governor-General is authorized to reserve for public uses the public lands comprised within certain boundaries, whether they belong to the Insular Government or to provincial or municipal governments. This provision unquestionably shows that the municipalities or municipal corporations of these Islands cannot appropriate to themselves public or Government lands without a prior grant from the Government and without reservation in the manner and by the procedure specified in said Act No. 648 and in the Act therein cited, No. 627. It is also evident that municipalities cannot acquire the ownership of public lands through prescription, as provided in the aforementioned sections 38 and 41 of the Code of Civil Procedure, nor do they need to avail themselves of this means for acquiring the same. Therefore, the trial court erred in taking account of the provisions of the two sections above cited for the purpose of decreeing the adjudication and registration of said parcels of land in the applicant's behalf.

For the foregoing reasons we reverse the judgment and order appealed from—the latter in the part thereof that is complementary of the former and relative to the two parcels of land Nos. 6 and 7 described in the application—and hold that the adjudication and registration of these parcels in behalf of the applicant municipality must be denied, whereby we sustain the adverse claim filed in connection therewith by the Director of Lands in representation of the Government of the Philippine Islands. No special finding is made in regard to costs. So ordered.

Torres, Johnson, Carson, and Trent, JJ., concur.

Moreland J., concurs in the result.

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