

THE ROMAN CATHOLIC BISHOP OF LIPA, PETITIONER AND APPELLANT, VS. THE MUNICIPALITY OF TAAL, OBJECTOR AND APPELLANT, THE MUNICIPALITY OF SANTO TOMAS AND THE DIRECTOR OF LANDS, OBJ...

G.R. No. 12097. July 26, 1918

Ponente: FISHER, J.

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FISHER, J.:

This was a proceeding in the Court of First Instance of Batangas had in accordance with the provisions of the Land Registration Act. The court below refused to register two of the parcels of land included in the petition, and from that part of the decision petitioner has appealed to this court. The municipality of Taal unsuccessfully opposed the registration of one of the parcels of land included in the petition, and has appealed from that part of the decision by which it was decreed that petitioner was the owner of the tract claimed by the municipality.

The appeal of the petitioner relates to two tracts of land, one of which is described in the petition as parcel 74, the registration of which was opposed by the municipality of Santo Tomas, and the other is described in the petition as parcel 71, lot 9, the registration of which was opposed by the Director of Forestry.

Parcel 74.—This is a tract of land containing 544 square meters, situated between the front wall of the atrium of the church and the public highway in the municipality of Santo Tomas, Province of Batangas. Concerning this tract of land the trial court said:

"The church applies for the registration of a tract of land containing an area of 12,995 square meters, as described in the plan Exhibit A-2, to which the acting provincial fiscal and Attorney Modesto Castillo, in representation of the municipality, opposed. The objector maintains that the land applied for, known as Plaza Malvar and situated in front of the church walls, is a public square under the control of the municipality of Santo Tomas.

"Counsel for the petitioner informed the court that he amended the application for registration so as to exclude from the land applied for that part thereof included within the walls of the church, inasmuch as it had already been registered formerly in accordance with a notice in the Official Gazette of April 10, 1912, p. 809, parcel 13, and the court agreed to such amendment and exclusion of the land already registered, included within the walls, the application being based on the land designated as Plaza Malvar; in other words, on the area included within numbers 1, 7, 8, and 9, marked in the plan with letter (a).

"The petitioner presented three witnesses to support its application, and the opposing party, i. e., the municipality, presented also three witnesses who testified in its favor, and introduced as evidence p. 809 of the Official Gazette of April 10, 1912, referring to parcel 13, lot 1, of the application for registration by the Catholic Church of a tract of land where the convent and the church with its courtyard are located.

"After a careful study of the testimony of the witnesses of both parties, inasmuch as none of them has presented documents of ownership, we believe that—considering the location of the land, which is said to be Plaza Malvar

and which according to the municipality constitutes a public square and according to the church is its own property—the yard of the church being surrounded by walls, we cannot understand why if the tract of land in question really belonged to it, the church allowed it to remain outside its walls. It must be taken into account that it is prevalent custom, as seem in several towns, to have the yards of churches readily recognized by their surrounding fences of stone or other materials. In the case at bar, the church inclosed its yard with walls, and the land in litigation is outside the said walls, forming a square at the side of a public street. Furthermore, if the portion constituting the subject matter of the controversy known as Plaza Malvar really belonged to the church, we cannot understand why the church in applying for the inspection of its title to parcel 13, lot 1, p. 809 of the Official Gazette of April 10, 1912, had particularly described as its boundary on the northeast the Plaza Malvar which it now claims as its own. This amounts to an admission by the church itself that the parcel of land which it now claims was a public square which, according to law, comes under the control of the municipality. These facts and the very act of the church itself militate against its claim.

"The oral evidence of both parties contradict each other. The witnesses of the church state that formerly the parish priests exercised certain acts of ownership over this portion of the land, such as for example, prohibiting the tying of animals there to avoid filth in the place; while those of the municipality have shown that this parcel of land was formerly used as a market place during certain days of the week, and these facts have not been contradicted by the petitioner. The mere fact that a certain priest had really prohibited the tying of animals in this parcel of land does not, according to our opinion, constitute an act whereby the church can be considered as the owner of the land, for, considering that the land in question lies in front of a sacred place, as the church, it seems rather disrespectful that one should tie animals there, not to say anything of the fact that such practice would pollute the very place where the public which attends the religious ceremonies would pass. Hence, it is but natural that the parish priests should prohibit it, their authority at that time under our former Government being absolute in the towns where all obeyed them either out of respect or of fear, and for this reason, the said prohibitions and the acts testified to by the witnesses of the petitioner are insufficient to give the latter a title of ownership. On the other hand, the acts performed by the municipality and by the church itself, which in its application has admitted that the land in litigation belonged to the municipality or Plaza Malvar—the parish priests of the towns of the Philippines took particular pains to fence the yards or plazas of the churches, as in this case, for here the yard of the church was fenced with the walls—constitute clear and sufficient evidence of ownership performed by the municipality.

"Wherefore, the court denies the petitioner's application for registration, as amended, of that portion of the land comprised within numbers 1, 7, 8, and 9 of the plan Exhibit A-2, that is, the land in litigation known as Plaza Malvar, which is outside of the walls and according to the evidence, a public square."

We have examined the evidence relative to this parcel of land, and are of the opinion that the court below did not err in refusing to decree its registration as the property of the petitioner. The so-called acts of dominion mentioned in the decision of the court, and which are invoked by petitioner in its brief as the sole ground upon which it relies to show its ownership of the land in dispute, are wholly insufficient for that purpose. The decision must be affirmed as regards the denial of the petition of applicant for the registration of parcel 74.

Parcel 71.—This is a tract of land in the municipality of Rosario, Province of Batangas. The petition of the applicant for the registration of this tract was opposed by Benedicto de Villa, with respect to 78,473 square meters, and by the Director of Forestry, with respect to 71 hectares which he contends are public forest land. The petitioner withdrew its application as regards the land claimed by Benedicto de Villa, and the trial court excluded from the decree of registration the 71 hectares claimed by the Director of Forestry as being public forest land. The decision of the trial court, regarding parcel 71, lot 9, is as follows:

"Respecting parcel 71, lot 9, of which the Bureau of Forestry and the municipality of Rosario were the objectors,

both being represented by the acting provincial fiscal, the evidence has shown that the land applied for by the church should be considered as a forest, for there are no signs of cultivation therein, but on the other hand, there are trees of much importance and some trees of the first group. This piece of land is approximately 71 hectares, as shown in the plan Exhibit A-1, marked therein with the letter (a), and Exhibit 2 of the objectors, and is situated in the southeastern part of the land applied for. Hence, there should be adjudged to the church that part of the whole area described in the plan Exhibit F-2 after deducting the 71 hectares claimed by the Bureau of Forestry and the area of 78,473 square meters marked as lot 9 in the name of Benedicto de Villa and should therefore be considered as the property of the latter—all in accordance with the cession or dismissal prayed for by the petitioner during the trial."

We have carefully examined the evidence adduced by the petitioner regarding that part of parcel 71, lot 9, excluded by the court below upon the opposition of the Bureau of Forestry, but are unable to find the remotest indication that it was the property of the petitioner. There is no suggestion that there has ever been a grant of this land from the Government, and there is no such proof of possession as to warrant us in decreeing title in accordance with section 54, paragraph 6, of Act No. 926, as amended by section 1 of Act No. 1908, which reads as follows:

"All persons who by themselves or their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said Act of Congress of July first, nineteen hundred and two, under a bona fide claim of ownership except as against the Government, for a period of ten years next preceding the twenty-sixth day of July, nineteen hundred and four, except when prevented by war or force majeure, shall be conclusively presumed to have performed all the conditions essential to a government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter."

The only proof of cultivation of the land in question is that at times part of it has been cultivated by the *caingin* system. The evidence does not show how long this has been done or what portion of the land was so cultivated. We take judicial notice of the fact that the *caingin* system of cultivation is essentially temporary in character. Apart from evidence regarding the occasional cultivation of the property by the *caingin* system, the only proof of possession is that cattle were occasionally pastured on part of the land, and that some trees were cut on it under the direction of persons ostensibly acting on behalf of the petitioner. Obviously, none of these acts constituted compliance with the requirements of the statute as above quoted. We are of the opinion that the decision of the lower court concerning this tract must be affirmed.

Parcel 30, Lot No. 13.—This parcel of land is described in the petition as follows:

"Parcel 30 (lot No. 13).—Situated in the barrio of Balibago, municipality of Taal. Bounded on the NE. by the property of Matilde Martinez; on the SE. by the property of Matilde Martinez and Juan Cabrera; on the SW. by the road; on the NW. by the properties of Andres Collantes and Hilariona Collantes. Area: 1,706 square meters."

The registration of this parcel of land as the property of the petitioner was opposed by the municipality of Taal, but the opposition was overruled, and the registration of the land on behalf of the petitioner was decreed by the trial court. From this part of the decision, the municipality of Taal has appealed. The decision of the trial court regarding lot 13, parcel 30, is as follows:

"On parcel 30, lot 13, to the inscription whereof the municipality of Taal objects, there is a chapel of mixed materials.

"The preponderance of evidence has shown that the land came from one Maria Caibigan, alias Apong, who then

gave it to the Roman Catholic Church, and no one has presented any claim against the church, according to witness Sebastian Lontok, 86 years of age, who was gobernadorcillo in 1862 and 1867. He stated that as gobernadorcillo he knew that the land was donated to the Catholic church and that the chapel had been administered by the parish priests of Taal; but these proofs refer only to the land occupied by the chapel, and there should be excluded from the plan Exhibit X-1 that which appears to be claimed by Juan Cabrera, as was agreed upon by the petitioner and the objector in the hearing of September 8, 1915, and the petitioner stated that the petition be considered as thus amended, excluding said part claimed, that is, the part where the stone walls stand, which should be considered as belonging to the municipality of Taal."

It is contended in the brief filed on behalf of the municipality of Taal, as appellant, with regard to the registration of lot 13, parcel 30, that the evidence shows that the land in dispute is the property of the municipality, but, as there was no application by the municipality for the registration of this land, our inquiry must be limited to determining whether the evidence does or does not show that it is the property of the applicant.

With respect to this tract of land, we hold that the clear preponderance of the evidence establishes the facts that the land in question was originally the property of Juan Collantes and his wife Maria Kaibigan; that in 1862 or 1863 they gave the land to the people of the town of San Luis, now a barrio of Taal, so that a building might be erected upon it to serve as a meeting place or tribunal for the transaction of the public business of the town; that a building was constructed there for that purpose and so used for many years; that it was also used as a place of public worship; that about the year 1879 the first building erected on the land was destroyed by fire; that the people of the town, with the assistance of the parish priest, then built the present chapel or visita on the land in which the patron saint of the town is housed; that the cost of maintaining the building is defrayed by the contributions of the people composing the congregation of the chapel, who elect a person to take charge of the chapel and act as custodian of the funds collected for its upkeep; that the Catholic parish priest of Taal goes to the chapel to say mass whenever he is called upon to do so by the congregation of the chapel and is paid for so doing out of the chapel funds.

The petitioner in this case is the Roman Catholic Bishop of Lipa, a corporation sole. We are of the opinion that the title of this corporation to the land in question is not established by the showing that the Catholic priest of Taal has from time to time said mass in the chapel existing on that land. Even if we were to assume that the Catholic parish priest of Taal is the agent of the applicant corporation, there is nothing incompatible with the ownership by its congregation of the chapel and of the lot occupied by it, in the celebration of mass in the chapel by the priest of the parish.

It is not necessary for us to determine whether the chapel and the lot in dispute are the property of the municipality of Taal, or of some other entity or person. The only applicant for the registration of title is the Roman Catholic Bishop of Lipa described in the petition as a "unipersonal corporation duly organized in accordance with the laws of the Philippine Islands." We are not justified in permitting the registration of the title to the land in question in favor of this applicant merely because the proof does not show that the land belongs to the opponent

"One of the primary and fundamental purposes of the registration of land under the Torrens system is to secure to the owner an absolute, indefeasible title, free from all encumbrances and claims whatsoever, except those mentioned in the certificate of title, and so far as it is possible, to make the certificate issued to the owner by the court, absolute proof of such title."/H^, order, however, that the petitioner for registration orliis land under the Torrens system shall be permitted to have the same registered and to have the benefit resulting from the certificate of title finally issued, the burden is upon him to show that he is the real and absolute owner, in fee simple, of the lands which he is attempting to have registered. The petitioner is not entitled to have his lands registered under the

Torrens system simply because no one appears to oppose his title and to oppose the registration of his lands. In order that land may be registered under the Torrens system, the petitioner must show, even though there is no opposition, that he is the absolute owner, in fee simple, of the same. Courts are not justified in registering property under the Torrens system in the name of the petitioner simply because there is no opposition offered. In view of the fact that the entire revenues of the state under certain conditions are made subject to the payment of damages for errors in the wrongful registration of property, courts should insist upon unquestionable proof of absolute ownership in fee simple on the part of the petitioner. The petitioner may be the owner, as a matter of fact, of the land and yet be unable to furnish satisfactory proof of the kind required for registration under the Torrens system at the time of the presentation of his petition for registration. The denial of the petition for registration is not conclusive proof that the petitioner is not the owner. The denial of a petition for registration simply indicates that he has not furnished that kind of proof showing an absolute title in fee simple which is required under the Torrens system.. It is the duty of the courts, even in the absence of any opposition, to require the petitioner to show, by a preponderance of the evidence and by positive and absolute proof, so far as it is possible, that he is the owner in fee simple of the lands which he is attempting to have registered. (*Maloles vs. Director of Lands*, 25 Phil. Rep., 548.)

As the evidence does not show that lot 13 of parcel 30 is the property of the applicant corporation, the decision of the lower court concerning this parcel must be reversed.

Costs.—The petition for the registration of the property described therein was [filed before the passage of Act No. 2556, and the costs denraadable under the law then in force were paid by the petitioner. Act No. 2556 provides for the payment of higher costs in land registration proceedings. By the terms of the Act its provisions are made applicable to land registration proceedings pending at the time it took effect. The lower court made an order requiring the petitioner to pay the difference between the costs paid under the former law, in force when the proceeding was commenced, and the amount due as costs under Act No. 2556. Petitioner appeals from this order and contends that the application of Act No. 2556 to pending proceedings for the registration of title is void as being ex post facto, as impairing the obligation of a contract, and as depriving petitioner of property without due process of law. None of these contentions can be upheld. The Act in question is not an ex post facto law, as it is not penal in its nature.

"It has long been settled that the phrase 'ex post facto laws' is not applicable to civil laws, but to penal and criminal laws which punish a party for acts antecedently done which were not punishable at all, or not punishable to the extent or in the manner prescribed. In short ex post facto laws relate to penal and criminal proceedings, which impose punishment or forfeitures, and not to civil proceedings, which affect private rights retrospectively." (*Encyc. of U. S. Supreme Court Reports*, vol. 4, page 517[^] and cases cited in Note 29.)

There was no contract between the petitioner and the Government that no change would be made in the law regarding the costs to be charged in land registration proceedings. Petitioner's property is not being taken without due process of law. The commencement and continuance of the proceeding for the registration of its lands is a purely voluntary act on petitioner's part, and if it had deemed the costs demandable under Act No. 2556 as being higher than it was warranted in paying for the benefit to be derived from the registration of its title, it might have withdrawn its application. There is no vested right to the maintenance of any given tariff of court costs. If the Legislature were to repeal in toto the Land Registration Act and thereby make it impossible for petitioner and other similar applicants to obtain a registered title to land, no vested right would be impaired. If the Legislature may validly repeal the statute in toto clearly it has power to amend it in any particular it may deem essential.

The judgment of the lower court is affirmed with regard to parcel 71, lot 9, and as to parcel 74, and is reversed as regards lot 13 of parcel 30, as to which petition will be dismissed. The order of April 1, 1916, regarding costs is

affirmed. No costs will be allowed on this appeal. So ordered.

Torres, Johnson, Carson, Street, and Malcolm, JJ., concur.

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