

**LEONCIO SESA Y MEDINA, APPLICANT AND APPELLANT, VS. THE
MANILA RAILROAD COMPANY AND THE INSULAR GOVERNMENT,
OBJECTORS AND APPELLEES.***G. R. No. 15915. September 07, 1921*

Ponente: JOHNSON, J.

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This is an application for the registration of a parcel of land situated in the barrio of Palsabangon, municipality of Pagbilao, Province of Tayabas, containing three lots of which lot No. 2 is the only one in question. Said lot No. 2 is composed of 35,327 square meters, and is occupied by the Manila Railroad Company, the same being within civil reservation No. 3 of the Court of First Instance of Tayabas (G. L. R. O. Reservation Case No. 242). The lower court denied the registration of said lot upon the ground that the application for registration had not been presented within the time required by law in said civil reservation proceedings.

It appears that by Executive Order No. 112, dated December 3, 1914, the Governor-General, pursuant to the provisions of Act No. 648, reserved "for railroad purposes" a strip of land 30 meters wide and more than 80 kilometers long, from the municipality of Lucena to the municipality of Calauag, Province of Tayabas. Lot No. 2 in question is included within said reservation.

Upon being duly notified by the Governor-General of said Executive Order, the Judge of the Court of First Instance of the Province of Tayabas, pursuant to the provisions of section 2 of Act No. 648, on the 21st day of December, 1914, issued the following notice to all the parties concerned:

"Whereas under the provisions of Act No. 648 of the Philippine Commission, by executive order there have been reserved from settlement or public sale and for railroad purposes the following described lands of the public domain the use of which has not otherwise been directed by law:

* * * * *

"And whereas the Governor-General has certified in writing that said lands are reserved for civil public uses, and has given notice thereof to the Judge of the Court of First Instance of the Fourteenth Judicial District;

"Now, therefore, in pursuance of the requirements of said act,

"Notice is hereby given that claims for all private lands, buildings,, and interests therein, within the limits aforesaid, must be presented in said court for registration under 'The Land Registration Act' within six calendar months from the date of this notice, and that all lands, buildings and interests therein, within the limits aforesaid not so presented within the time herein limited will be conclusively adjudged to be public lands, and all claims on the part of private individuals for such lands, buildings, or an interest therein not so presented will be forever barred."

On the 10th of February, 1915, the petitioner herein, through his attorney, Felipe Agoncillo, presented a motion in the Court of First Instance, asking that said Executive Order No. 112 be declared unconstitutional and that the

proceedings thereunder be dismissed. The court refused to decide that motion for the reasons set forth in its order of May 18, 1915.

On the 22d day of May, 1915, the petitioner, Leoncio Sena, was personally served with notice of the reservation proceedings, and five months thereafter, to wit, on the 22d day of October, 1915, he presented in the Court of First Instance a "comparecencia" in which he alleged that part of his land, composed of 36,510 square meters, was included in said reservation; and that he was about to present a petition for the registration of the same under the Land Registration Act, and asked permission of the court to present said petition.

On the 9th day of August, 1918, more than three years since the receipt of the notice above referred to, the petitioner presented the present petition for the registration of the land in question. The lower court denied said petition upon the ground that, the same not having been presented within the six months* period provided by Act No. 627, the land in question was conclusively presumed to be public land.

The appellant makes two principal assignments of error: That the lower court erred (1) in not finding that Executive Order No. 112 was void and of no effect; and (2) in finding that the right of the petitioner had prescribed.

Under the first assignment of error the appellant contends that Executive Order No. 112 was void and of no effect in so far as lot No. 2 in question was concerned because (a) the Governor-General had no authority to reserve private property, and (b) even if he had such authority, he was not authorized to reserve the same for railroad purposes. In answer to that contention it is sufficient to say that the Governor-General, in said executive order, did not reserve any private property but only "all public lands included within the limits described" in said executive order. Indeed, it was expressly ordered that "all private lands or interests therein within the limits described, ought forthwith to be brought within the operation of 'The Land Registration Act,' and to become registered land within the meaning of said 'The Land Registration Act,' in pursuance of the provisions of Act No. 627 of the Philippine Commission." It is clear, then, that it was not attempted by said executive order to appropriate private property without compensation and without due process of law.

It was earnestly urged by the appellant that the Governor-General had no authority, under Act No. 648, to reserve any part of the public domain "for railroad purposes;" that he was only authorized by said Act to reserve it "for specific public uses." "Railroads may properly be termed public highways, whether constructed by the Government itself or by the agency of corporations or individuals under legislative authority." (33 Cyc., 37.) "A historical research discloses the meaning of the term 'public use' to be one of constant growth. As society advances, its demands upon the individual increase and each demand is a new use to which the resources of the individual may be devoted." (6 Words & Phrases, 5828.) It cannot be denied that a railroad is a public necessity in this country—a factor indispensable to its economic development and material welfare. It is in recognition of this fact that railroad corporations are empowered by law to exercise the right of eminent domain. We are therefore of the opinion that a railroad is a public use, for "whatever is beneficially employed for the community is a public use." (Aldrige vs. Tuscumbia C. & D. R. R. Co. [Ala.], 23 Am. Dec, 307.) It cannot be questioned that a railroad for general travel or the transportation of produce for the country at large is a public use. (Buffalo Bayou, etc. R. Co. vs. Ferris, 26 Tex., 588, 598.)

Referring to the second assignment of error with regard to the question of prescription, it will be noted that on the 22d day of May, 1915, five months 'after receipt of notice in the civil reservation proceedings, the appellant notified the Court of First Instance that lot No. 2 in question belonged to him and that he was about to present an application for its registration under the Land Registration Act, and asked permission of the court to do so. The appellant did not present that application until after more than three years had elapsed.

The question now arises as to whether the appellant had fulfilled the requirements of the law so as to preserve his rights to the land claimed by him. Section 3 of Act No. 627, among other things, provides that "claims for all private lands, buildings, and interests therein" within the limits of the reservation, "must be presented for registration under the Land Registration Act within six calendar months from the date of issuing the notice, and that all lands, buildings, and interests therein within the limits aforesaid not so presented within the time therein limited will be conclusively adjudged to be public lands, and all claims on the part of private individuals for such lands buildings, or an interest therein not so presented will be forever barred."

The appellant contends that the notice or claim presented by him on May 22, 1915, was a sufficient compliance with the foregoing provisions of law to preserve his right. It will be noted that the appellant did not present a claim for the registration of the land in question under the Land Registration Act, as required by section 3 of Act No. 627, but merely notified the court that he was about to present such claim, and asked permission to do so. That notice was wholly unnecessary; it was not required by law, and its presentation had no legal effect. What the appellant ought to have done was to present the petition for registration, spoken of in said notice, within six months after receipt of notice. He did not present it until after more than three years had elapsed. Under these circumstances, and in view of the decisions of this court in the cases of *Jose vs. Commander of Philippine Squadron* (16 Phil., 62); *Ruymann and Farris vs. Director of Lands* (34 Phil., 428); and *Roman Catholic Archbishop of Manila vs. Barrio of Santo Cristo* (39 Phil., 1), we are constrained to concur with the opinion of the lower court that the appellant's claim has prescribed under said section 3 of Act No. 627.

Therefore, the judgment of the lower court is hereby affirmed, with costs. So ordered.

Araullo, Street, Avancena and Villamor, JJ., concur.

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