

JACOBO ZOBEL ET AL., PLAINTIFFS AND APPELLANTS, VS. THE CITY OF MANILA, DEFENDANT AND APPELLANT.*G.R. No. 22201. January 12, 1925*

Ponente: STREET, J.

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This action was instituted in the Court of First Instance of the City of Manila on May 24, 1923, by the minors Jacobo Zobel, Alfonso Zobel, and Mercedes Zobel, under the guardianship of Fernando Zobel, to recover of the City of Manila the amount of the first two instalments of the purchase price of a tract of land located in the Province of Rizal near the corporate limits of the City of Manila, which has been conveyed by the guardian of the minor-plaintiffs by deed (Exhibit E) dated 21st of February, 1922, said instalments amounting respectively to P41,666.66 and with interest upon the first instalment from May 21, 1922, and upon the second from the date of the making of the contract. Upon hearing the cause the trial judge gave judgment in favor of the plaintiffs to recover both the principal sums claimed, amounting to P83,333.32, with interest upon only one installment at the rate of five per centum per annum. From this judgment the plaintiffs appealed from so much of the decision as failed to allow interest on both instalments at the rate claimed in the complaint, while the defendant appealed from so much of the judgment as was favorable to the plaintiffs. For convenience in the disposition of the controverted points, the appeal of the defendant will first be considered.

It appears that for several years the responsible officials of the City of Manila have appreciated the necessity for the establishment of a cemetery near the city and on the south side of the Pasig River. Admittedly the only tract of land available for this purpose consists of a part of the Hacienda San Pedro Macati, belonging to the plaintiffs, who are minors. This estate lies in the Province of Rizal, beyond the corporate limits of the city, but one of its corners juts into the southern, or southeastern suburbs of the city, in such manner as to bring the desired tract close in populous centres. The hacienda, it may be stated, has never been built upon or improved for city purposes and forms a solid block, practically untraversed by public streets or roads. Owing to the character of the subsoil the land has little value for agricultural purposes, which is the only use to which it has heretofore been put; and it is taxed in the Province of Rizal on the low basis of agricultural land.

In February, 1920, the Municipal Board of the City of Manila passed an ordinance (No. 726) appropriating the sum of P703,750 to be used for "the establishment of a cemetery in the south district of Manila and the acquisition of the land necessary therefor."

In consequence of the passage of this resolution the Honorable Ramon J. Fernandez, at that time the Mayor of the City, entered into negotiations with the guardian of the appellees, the result of which was a letter, written July 1, 1920, in which the appellees offered to sell to the city upon the terms therein set forth twenty-five hectares of the San Pedro Macati Estate for cemetery purposes (Exhibit A).

Upon receipt of this letter the Mayor endorsed it for recommendation and comment to the city engineer, and made request in writing of the Honorable Francis Burton Harrison, then Governor-General, that he designate some one

to continue negotiations for the purchase of the land.

On July 10, 1920, the city engineer returned the papers to the Mayor, stating that in his opinion the site selected was "the best location available and the only one suitable for cemetery purposes on the south side of the city."

On July 23, 1920, Governor-General Harrison appointed the city engineer, Mr. Artiaga, a committee of one to negotiate for the purchase of a tract of land to be used for the proposed south cemetery, whereupon the city engineer referred the communication of the Mayor to the Director of Health, requesting his concurrence. On August 18, 1920, the Director of Health returned the papers to the Mayor, concurring in the recommendation that the tract of land in question be purchased. Thereafter the city engineer reported to the Mayor that the proposed site was desirable and recommended its purchase at the rate of one peso per square meter. On August 26, 1920, the city engineer sent to the Governor-General a copy of his report to the Mayor.

Two or three days after the receipt of Mr. Artiaga's report, the Mayor referred the letter of offer and the other papers connected with the case, including the report of the city engineer, to the Municipal Board, requesting that the Board concur in his selection of the San Pedro Macati site for the location of the proposed south cemetery. On August 31, 1920, the Municipal Board, at a meeting at which all the members were present, adopted unanimously a resolution which reads as follows:

"Endorsement by the Mayor requesting concurrence of the Board regarding the land selected by his office for the proposed south cemetery, namely, a parcel of land of the San Pedro Macati Estate belonging to Mr. Enrique Zobel, who is willing to sell it at the rate of one peso per square gratuitously to give access to the cemetery from Calle Vito Cruz, referred to the committee on cemeteries for comment and recommendation."

In accordance with this resolution, the matter was referred to the committee on cemeteries of the Municipal Board of the City of Manila. Under date of September 10, 1920, that committee returned the papers to the Municipal Board "recommending the approval of the construction of the south cemetery on the site here indicated as the conditions of the said site are appropriate for the purpose."

On September 10, 1920, the report of the committee was received by the Municipal Board and a resolution of the following tenor was adopted:

"Endorsement of the committee on cemeteries recommending the approval of the site selected by the Mayor for the south cemetery situated at the San Pedro Macati Estate, containing approximately twenty-five hectares. The recommendation is approved and it is ordered that the matter be returned to the Mayor inviting his attention to this approval."

After the adoption of this resolution, on September 23, 1920, the Honorable Ramon J. Fernandez, at that time Mayor of the City of Manila, and acting on its behalf, and Mr. Enrique Zobel, as guardian of the appellees, acting on their behalf, entered into a preliminary contract in writing, prepared by the city fiscal of the City of Manila, embodying therein the terms of the agreement under which the City of Manila was to buy and the appellees were to sell the tract of land in question. (Exhibit C.)

On December 10, 1920, the Municipal Board of Manila adopted a resolution requesting authority pursuant to Act No. 2894 to issue bonds for the construction of works and permanent improvements in the amount of P5,500,000. This resolution was duly approved, the bonds mentioned were issued and sold, and on February 21, 1922, there was an unexpended balance from the proceeds of these bonds, amounting to P1,341,994.35, which was available to defray the cost of the south cemetery project.

The preliminary contract bears date of September 23, 1920; but on account of delay in the preparation of the plans and technical description of the property necessary to make possible its transfer under the Land Registration Act,

it was not until February, 1922, that the final deed of conveyance (Exhibit E) was executed.

On February 20, 1922, the Municipal Board of Manila adopted a resolution (Resolution No. 31, series of 1922) making an appropriation in the amount of P180,000 from the public works and permanent improvements bond issue fund of the city for the purpose of the south cemetery. This resolution was approved by the Secretary of the Interior in accordance with the provisions of section 1 of Act No. 2894.

The day after Resolution No. 31 was adopted, the appellees' guardian, acting on their behalf, with the approval of the Court of First Instance of the City of Manila, and the Honorable Ramon J. Fernandez, acting on behalf of the City of Manila, executed a final deed of sale of the land in question. (Exhibit E.) This deed was drafted under the direction of the city fiscal of the City of Manila. On February 24, 1922, said deed was filed for record with the register of deeds of the Province of Rizal, together with appellees' certificates of title. Thereupon transfer certificates of title were duly issued to the City of Manila as owner.

After the execution and delivery to it of the deed of sale to the land in question, and the issuance to it of the certificates of title thereto under the Land Registration Act, the City of Manila took possession of the property and placed boundary monuments on the corners of the land conveyed to it to mark the limits thereof.

By the terms of the conveyance the purchase price of P250,000 was to be paid in six instalments of P41,666.66 each, the first to be made three months after the date of the execution of the deed, and the remainder in yearly instalments thereafter. The first instalment was not to bear interest but the remaining instalments were to bear interest at the rate of five per centum per annum. On the date of the execution of the deed of sale, ample funds were available to meet the payments, as appears from a statement in the record signed by the chief of the department of finance of the City of Manila.

In anticipation of the falling due of the first instalment of the purchase price, the city treasurer, on March 24, 1924, prepared and signed a warrant on the city depository for a sum sufficient to cover said instalment. This warrant was then sent to the district auditor, one Crisanto Ticman, to be countersigned by him. Upon looking into the matter the fact came to Ticman's attention that the land which was being acquired by the city was assessed on the tax books of the Province of Rizal as uncultivated agricultural land, at a valuation of about sixty pesos per hectare. Observing the disparity between this valuation and the price which the city had contracted to pay, Ticman refused to countersign the warrant and addressed a letter to the Insular Auditor, E. M. Fullington, suggesting that the sale should not be permitted to go through and observing that if the city would institute condemnation proceedings it would surely get the land for very much less than the stipulated price of P250,000. The Insular Auditor approved the course taken by his subordinate and reported the matter to Governor-General Wood, who, through his secretary, appointed a committee of three, composed of Colonel C. E. Nathorst, of the Philippine Constabulary, Mr. M. del Rosario, district auditor for Rizal, and the city engineer, Mr. Artiaga, to investigate the matter and report to him. The result of the inquiry was that the majority of the committee expressed the view that not more than fifty centavos per square meter should be paid for the land, while Artiaga maintained his former position that the price of one peso per square meter represented a reasonable valuation.

The Nathorst report was forwarded to the Mayor by the secretary to the Governor-General, through the office of the Insular Auditor, with the indorsement, by authority of the Governor-General, that the action of the Auditor in refusing to countersign the warrant in any amount in excess of fifty centavos per square meter was approved.

Meanwhile on May 21, 1922, the first instalment of the purchase price of the land had fallen due, and on June 7, 1922, Mr. Zobel, guardian of the appellees', addressed a letter to the Mayor, reminding him that payment had not been made. On August 7, 1922, the Mayor replied to Mr. Zobel's letter, stating that while he recognized the obligation of the city to carry out its contract, nevertheless, in view of the intervention of the Governor-General in

the matter, he would take no further action. The result was that payment of the instalment then due was not effected, and a similar default occurred later with respect to the second instalment.

This cause was tried in the lower court upon an agreed statements of fact, necessarily somewhat elaborate in its details. After the cause had been decided an error was discovered in the transcription of Resolution No. 31, series of 1922, into the agreed statements of fact, which was this: In the authentic resolution there appears a paragraph cancelling Resolution No. 276, series of 1921, but in the transcription of said resolution into the agreed statements the first two figures of the cancelled resolution were so transposed as to make it appear that Ordinance No. 726 was cancelled. It so happened that both Ordinance No. 726 and Resolution No. 276 related in part to the same subject, namely, the south cemetery; with the result that no one concerned in the litigation discovered the error, and the cause was tried in the lower court on the erroneous supposition that Ordinance No. 726 had been repealed in so far as relates to south cemetery by said Resolution No. 31, series of 1922. This error appears to have been first discovered by the attorneys for the appellees after the cause was brought to this court upon appeal, and investigations were conducted by them which revealed the further fact that on May 10, 1921, the Municipal Board had passed an ordinance (No. 966) reverting to the general funds the unexpended balance of the amount theretofore appropriated for the south cemetery in Ordinance No. 726.

In view of the discovery of the error above-mentioned the appellees, on July 12, 1924, filed a motion in this court, asking to be relieved from the erroneous stipulation upon the point mentioned and that the court should admit as evidence the affidavits showing the facts to be as stated in the motion. The motion was opposed by the appellant, and this court deferred decision on the motion until the case should be considered on the merits. As it now becomes proper to pass upon the matter, we will say that while it is not clear that the error alluded to affects the fundamentals of the case, yet the mistake is obvious and the situation is one where the appellees are entitled to be relieved from any prejudicial results. Furthermore, it is desirable for the court to be able to state the facts with truthfulness. We shall therefore assume that the records stand corrected, with leave to the appellant's attorneys to show that the facts stated in the motion are erroneous, in the contingency that they desire to contest the same.

In dismissing this matter we may observe that, the general situation with reference to the appropriations available for the south cemetery may be summed up in the statement that at the time the preliminary contract (Exhibit C) was executed on September 23, 1920, there existed an appropriation of the general funds of the city under Ordinance No. 726, of the sum of P703,750 available for the purpose of establishing the south cemetery; while at the time the definitive contract of sale (Exhibit E) was made, on February 21, 1922, there existed an appropriation from the public works and permanent improvements bond issue fund in the amount of P180,000 for the same purpose, though the appropriation from the general funds was then no longer available.

The opposition of the auditing department to the carrying of this contract into effect undoubtedly had its origin in a desire on the part of the district auditor to protect the interests of the city, based on the conviction that if the contract could be nullified and condemnation proceedings instituted the amount to be paid by the city would be considerably less than that named in the contract. Conceding the propriety of this point of view, the consideration is one that in no wise affects the legal aspects of the case; and it is but fair to say that the terms of purchase were apparently as favorable to the city as could be arranged by negotiation with the representative of the owners. At any rate the good faith of the city officials concerned in the deal is not called in question. We observe furthermore that in the Nathorst report the principal reason assigned for estimating the price that should be paid by the city at fifty centavos per square meter, instead of one peso per square meter as agreed, is that the construction by the city of the road to the cemetery will considerably increase the commercial value of the remainder of the estate.

Considered as a basis for the proposed reduction in the price of the land to be taken, this suggestion is only partially sound. Even in condemnation proceedings the law does not unqualifiedly permit the offsetting of

incidental benefits against the actual value of the property taken. The rule, we take it, is that incidental benefits may be set off against incidental damage but not against the basic value of the property. Otherwise an owner could be deprived of his property without any compensation at all, as where, for instance, only a small part of an entire parcel is taken for certain uses, with incidental benefit to the remainder. It follows that, even upon the face of the report itself, the fact that the agreed price is excessive is not demonstrated; and it is to be remembered that by the deed conveying the cemetery site to the city the plaintiffs have gratuitously transferred many thousands of square meters to the city for the construction of a road to the cemetery, with the result that if this land be included in the estimate the price of the whole is less than eighty centavos per square meter. The circumstance that the land in question is assessed on the tax books of the Province of Rizal at sixty pesos per hectare is of little moment when we come to consider the value of the land in relation with its propinquity to the City of Manila and its utility for the purpose for which it is inevitably destined to be used.

The brief of the defendant as appellant raises several questions of a purely legal nature, which will be discussed in the order of their logical sequence; and we shall first consider that which relates to the antecedent appropriation necessary before a binding contract can be made requiring the expenditure of public funds. The provision of law here applicable is found in section 606 of the Administrative Code, wherein it is declared that no contract involving the expenditure of public funds shall be made until there is an appropriation therefor, the unexpended balance of which, free from other obligations, is sufficient to cover the proposed expenditure. As we have already seen, at the time the preliminary contract was made, Ordinance No. 726, appropriating the sum of P703,750 for the proposed cemetery was in force. This in our opinion is a sufficient compliance with the legal requirement; and the circumstance that before the definitive contract was made this money was reverted to the general funds of the city did not have the effect of nullifying said contract. The question whether the contract is valid depends upon the situation existing at the time the first agreement was made.

The second question to be considered has reference to the applicability of section 607 of the Administrative Code to contracts made by the City of Manila. In the second paragraph of said section it is declared that no contract involving the expenditure by any province, municipality, township, or settlement of two thousand pesos or more shall be entered into or authorized until the treasurer of the political division concerned shall have certified to the officer entering into such contract that funds have been duly appropriated for such purpose and that the amount necessary to cover the proposed contract is available for expenditure on account thereof. It is admitted that no such certificate was made by the treasurer of Manila at the time the contract now in question was made. We are of the opinion that the provision cited has no application to contracts of a chartered city, such as the City of Manila. Upon examining said provision (sec. 607) it will be found that the term chartered city, or other similar expression, such as would include the City of Manila, is not used; and it is quite manifest from the careful use of terms in said section that chartered cities were intended to be excluded. In this connection the definitions of "province," "municipality" and "chartered city," given in section 2 of the Administrative Code are instructive. The circumstance that for certain purposes the City of Manila has the status both of a province and a municipality (as is true in the distribution of revenue) is not inconsistent with this conclusion.

The next contention is that the contract in question is void because the approval of the city council was not expressed in the form of an ordinance. The provisions of law applicable upon this point are found partly in section 2434, subsection (t), as amended by section 4 of Act No. 2774 of the Philippine Legislature, and partly in section 2443 of the Administrative Code. Subsection (i) of section 2434, as it originally stood in the Administrative Code, among other things declared that the Mayor shall represent the city in all its business matters and sign on its behalf all its bonds, contracts and obligations made in accordance with law or lawful ordinance or resolution. The corresponding provision in the amendatory Act (No. 2774) makes it his duty to represent the city in all its business matters and sign on its behalf all its bonds, contracts and obligations made in accordance with the laws or

ordinances. Section 2443 of the Administrative Code, as it now and at all times has stood, clearly recognizes the power of the board to adopt resolutions creating liability, and in the same section the Mayor is given authority to veto such resolutions.

Now, from the omission of the word "resolution" from the amendment of subsection (i) of section 2434, it is argued that it was the intention of the Legislature to suppress the power of the Municipal Board to authorize the making of contracts by resolution. The validity of this contention cannot be admitted; for even supposing that the Legislature may have entertained the purpose attributed to it in amending subsection (i) of section 2434, this intention was not fully accomplished by said amendment alone, the other provision (sec. 2443) having remained without alteration. But we incline to the view that the expression "laws or ordinances," found in the amendment of subsection (i) of section 2434, is there used in a sense broad enough to include resolutions. The reason for this is that we find the same verbal change in two other paragraphs of the same section, in respect to which there can be no doubt that resolution was intended to be included in the broader expression. Thus, in subsection (a) of section 2434 of the Administrative Code, it was made the duty of the Mayor to see that the "laws, ordinances and resolutions" should be faithfully executed and enforced. In sub-section (m) of the same section it was made the duty of the Mayor "to perform such other executive duties as may be prescribed by law or be required of him by ordinance or resolution of the board." In the two corresponding provisions of the amendatory Act (No. 2774) the word "resolution," or "resolutions," is omitted and the inclusive expression "laws and ordinances" or "law or ordinance" is used. Can it be maintained that the intention of the Legislature in making these changes was to relieve the Mayor of all executive responsibility as to the enforcement of resolutions? Certainly not: he has the same duty to enforce lawful resolutions as to enforce any law or ordinance. Yet if the argument relied upon by the appellant is valid as to the effect of the omission of the word resolution in subsection (i), it would necessarily follow that the Mayor has no administrative responsibility whatever as to the enforcement of resolutions.

It is next insisted that the resolution of the Board dated September 10, 1920, approving the Mayor's action with respect to the cemetery site, was intended merely as an expression by the Board of its approval of the location of the land chosen for the site, without any commitment as to the terms upon which the property was to be acquired. We are of the opinion that this is not a fair interpretation of the resolution. At the time the resolution was adopted, the Board had before it the offer made by the guardian of the plaintiffs, stating the terms upon which the sale would be made. This offer was accompanied by the favorable report and recommendation of the city engineer, the approval of the proposed site by the Director of Health, and the recommendation of the committee on cemeteries of the Board that the cemetery be constructed on the site indicated. The indorsement by which the Board, with all members present, referred the matter to this committee expressly recites that the price to be paid for the land was at the rate of one peso per square meter, apart from the tract to be ceded gratuitously to give access to the cemetery. In the light of these facts it is impossible to suppose that any member of the Board was unaware of the conditions upon which the land was to be acquired. Again, it is obvious that the matter before the Board was not the mere question of a choice between one or more available tracts of land then at the disposal of the city. It had reference to the only tract available for cemetery purposes. There was no possible choice as between competitive lots, and the sole question was whether this lot was acceptable under the terms stated in the offer.

Considered as a mere expression of the preference of the Board as to the location of the cemetery, the resolution was wholly without efficacy and could not advance the negotiations in the slightest degree. We are of the opinion that the intention was to approve the construction of the cemetery on the site chosen and on the terms expressed in the offer. As a consequence the Mayor was clothed with authority to execute the contract which he subsequently made.

The attorneys for the appellant further insist that, even supposing the resolution to have constituted a sufficient

approval of the contract in the terms expressed in the offer, nevertheless the efficacy of the resolution was destroyed by the subsequent introduction of material changes into the agreement. In this connection reference is made to a portion of clause V of the deed, in which it is declared that the land shall be used exclusively for a cemetery to be known as South Cemetery. The insertion of this term in the contract is supposed to constitute a material variance from the offer. We are unable to agree with this contention, as the clause to which exception is taken seems to be a mere unfolding of what was implicit, if not actually expressed in the offer. The letter of offer (Exhibit A) used the name South Cemetery to identify the proposed burial ground, and the fact that the land was intended solely for cemetery purposes was patent throughout the negotiations. It will be borne in mind that the city has no authority to acquire land for speculative or commercial uses, and as no other purpose for this acquisition has been suggested than for the establishment of a cemetery, we think that no material mistake was committed by the city fiscal in stating in the deed that the property should be used exclusively for that purpose.

Another reason advanced for supposing the contract for the purchase of this property to be invalid, or at least unenforceable, is that the Insular Auditor has refused to countersign the warrant for the first instalment of the purchase price; and it is insisted for the defendant that this action on his part is conclusive against the plaintiffs. Their sole recourse, so it is claimed, is, or rather was, by way of administrative appeal from the action of the Auditor to the Governor-General. The suggestion is in our opinion without merit. The general provisions of law denning the jurisdiction and powers of the Auditor and which, if literally construed, would seem to make him absolute arbiter of all claims of any sort against all branches of the Government must be considered to be qualified as regards the contract rights of persons dealing with the city by the more specific provisions declaring how and by whom contracts can be made which will be binding on it. It was not intended that the Auditor should possess a general veto power over all city contracts, and his refusal to countersign the warrant referred to is of no moment in this action to enforce the legal liability of the city.

Finally, exception is taken to the refusal of the trial court to require the Insular Auditor to be brought in as a party defendant. The course pursued by the court was in our opinion correct. The action is based exclusively upon the legal liability of the city, and no relief is sought against the Auditor. He was therefore not a necessary or even a proper party to the action. Of course if the claim had been based upon an obligation of the Insular Government, no action would have lain directly against the debtor, in the absence of its consent to be sued. In such case the plaintiffs' only remedy would have been by the writ of mandamus to compel the Auditor to countersign a warrant for the amount due. But the debtor in this case is a municipal corporation, which does not enjoy the State's immunity from suit, and the action can be maintained directly against it without the intervention of the Auditor.

What has been said suffices to dispose of the contentions made in behalf of the defendant as appellant, and we accordingly pass to the errors assigned in behalf of the plaintiffs as appellants with respect to the matter of interest. The facts here pertinent are these: By the final deed of sale, dated February 21, 1922, the city undertook to pay the total purchase price of P250,000 in six instalments. The first was in the amount of P41,666.70 payable on May 21, 1922. The other five were in the amount of P41,666.66 each, successively falling due on May 21, 1923, and on the same date in each succeeding year until all should be paid.

The following stipulation with respect to interest is found in clause III of this contract:

"Of the instalments above stipulated, the first (which will fall due three months after the execution of this writing) shall draw no interest; but the five later instalments shall draw interest at the rate of five per centum (5%) per annum, payable to the creditors upon the date when they shall respectively fall due."

From this it will be seen that the agreement as to interest differs in case of the two instalments here sued on; and the situation with respect to each will therefore be dealt with separately.

As to the first instalment, which was to fall due at three months, it was stipulated that it should bear no interest. The trial judge appears to have considered that this stipulation deprived the plaintiffs of the right to interest after default, and no interest whatever was allowed by him upon this instalment. This was error. The stipulation that this instalment should draw no interest was made in the expectation that the obligation would be paid upon the date stipulated. After default occurred the defendant became liable for interest as damages regardless of the absence of any express stipulation for interest and regardless of the statement that this instalment should draw no interest. This statement in the contract was evidently intended merely to govern the rights of the parties with respect to interest for the three-month period between the making of the contract and the date when the instalment was to become due. With respect to the plaintiffs' right to interest after default the situation is to be treated precisely as if nothing had been said about interest at all.

As already stated, the first instalment fell due on May 21, 1922, and extrajudicial demand for payment appears to have been made in a letter dated June 7, 1922, from the guardian of the plaintiffs addressed to the Mayor. Under the first paragraph of article 1100 of the Civil Code and under article 1108 of the same Code, interest should be allowed upon this instalment at the rate of six per centum per annum. Under section 510 of the Code of Civil Procedure, the interest thus accruing must be consolidated with the principal as of the date of the judgment of the lower court; after which interest upon the whole shall be computed at the same rate.

With respect to the second instalment interest must be allowed at the contract rate of five per centum per annum from the date of the execution of the final deed of sale, or February 21, 1922; and under article 1109 of the Civil Code the interest that had accrued up to the date of the filing of the complaint (May 24, 1923) must be consolidated as of that date with the capital, after which the whole shall bear interest at the contract rate of five per centum per annum until paid. Where interest is contracted for at a given rate the contract obligation to pay interest is not merged in the judgment but remains in full force until the debt is paid. The circumstance that the rate here stipulated was less than the lawful rate does not alter the case.

In connection with liability for interest it may be well to point out that section 510 of the Code of Civil Procedure is applicable only to debts and claims with respect to which no stipulation for interest has been made, and article 1109 of the Civil Code, providing for interest upon interest, is applicable only to obligations containing a stipulation for interest. Furthermore, it will be noted that, though section 510 of the Code of Civil Procedure provides that interest shall be added "until the date of the final judgment," this is not to be understood, as inhibiting the collection of interest thereafter accruing until the judgment is paid. A demand established by judgment must be understood as bearing interest whether expressly so stated or not. Finally, it hardly needs be said, a municipal corporation does not enjoy immunity from liability for interest, when assessed as damages for the nonpayment of a debt, to the same extent as the general government.

Our conclusion is that no error was committed by the trial court in giving judgment in favor of the plaintiffs upon both causes of action, but the amount awarded must be modified to conform to the rules above stated with respect to the computation of interest, with the result that the plaintiffs shall recover of the defendant, upon the first cause of action, the sum of P45,652.84, as of the date of January 11, 1924, with interest thereafter at the rate of six per centum per annum until the judgment shall be paid; and upon the second cause of action the sum of P44,283.04, as of the date of May 24, 1923, with interest thereafter at the rate of five per centum per annum until the judgment shall be paid. The plaintiffs will also recover costs of both instances. As thus modified, the judgment is affirmed. So ordered.

Malcolm, Villamor, and Ostrand, JJ., concur.

Johns, J., concurring: It may be that the land is not worth the price which the city agreed to pay, but there is no

evidence of any fraud. In the absence of fraud, the contract is valid and should be enforced. For such reasons, I concur in the result.

Romualdez, J., with whom concur Johnson and Avanceña, JJ., dissenting: With due respect, I dissent from the opinion of the majority. I think that the price of the land was never acted upon by the Municipal Board either by resolution or ordinance, and consequently the contract of purchase and sale here in question cannot be held to have been perfected.

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