

FRANCISCO LOPEZ, PETITIONER, VS. THE AUDITOR GENERAL, COMMISSIONER OF PUBLIC HIGHWAYS, THE SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS, RESPONDENTS.

G.R. No. 25859. July 13, 1967

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

The petitioner Francisco Lopez is the registered owner of a parcel of land in Lopez, Quezon. In 1937, the municipal government of Lopez used a portion of his property in building a road which subsequently was converted into what is now known as the Lopez-Calauag section of the Manila South Road.

Nothing is known about any agreement between the petitioner and the Government, local or national, except that the petitioner claims that he agreed to allow the municipality to take a portion of his property in exchange for a piece of town property. Even the records of the municipal council of Lopez failed to shed light on the supposed agreement between the petitioner and the municipal government.

On May 2, 1959 the petitioner presented to the Highway District Engineer a claim for compensation for the portion of his property which, he averred, had been taken "without any deed of conveyance or right of way;" but his claim was denied on the ground that it had prescribed. His request for reconsideration was likewise denied by the Commissioner of Public Highways in a decision dated February 14, 1963, in which the Secretary of Public Works and Communications concurred.

The petitioner then appealed to the Auditor General. Again his claim was denied. In his letter of February 16, 1966, addressed to the petitioner, the Deputy Auditor General said:

"The records * * * show that since 1937 you never presented your claim for the payment [of the land] with this Office which, under the Constitution and the law (Commonwealth Act No. 327) has exclusive jurisdiction to decide the same; neither have you filed said claim with the Committee on Claims created by the late President Roxas under Administrative Order No. 6 dated July 29, 1946. It is obvious, therefore, that your claim for the payment of the value of said land has already prescribed. (Cf. *Jaen vs. Auditor General*, G.R. No. L-7921, prom. Sept. 28, 1955 and *Jaime Rosario vs. Auditor General*, G.R. No. L-11817, prom. April 30, 1958)".

The petitioner brought this case to this Court on the sole issue of prescription. He cites *Alfonso vs. Pasay City*[1] in which a lot owner was allowed to bring an action to recover compensation for the value of his land, which the Government had taken for road purposes, despite the lapse of thirty years (1924-1954). On the other hand, the respondents base their defense of prescription on *Jaen vs. Agregado*[2] which held an action for compensation for land taken in building a road barred by prescription because it was brought after more than ten years (i.e., thirty three years, from 1920 to 1953). They argue that the ruling in *Alfonso* cannot be applied to this case because, unlike *Alfonso* who made repeated demands for compensation within ten years, thereby interrupting the running of the period of prescription, the petitioner here filed his claim only in 1959.

It is true that in *Alfonso vs. Pasay City* this Court made the statement that "registered lands are not subject to prescription and that on grounds of equity, the government should pay for private property which it appropriates though for the benefit of the public, regardless of the passing of time." But the rationale in that case is that where private property is taken by the Government for public use without first acquiring title thereto either through expropriation or negotiated sale, the owner's action to recover the land or the value thereof does not prescribe. This is the point that has been over-looked by both parties.

On the other hand, where private property is acquired by the Government and all that remains is the payment of the price, the owner's action to collect the price must be brought within ten years otherwise it would be barred by the statute of limitations. This is the teaching of *Jaen vs. Agregado*. Thus this Court said in that case:

"[T]here is no pretense that the portion of the lot actually used has not yet been duly transferred to the government by its original owner. The validity of this transfer is not disputed and what petitioner merely seeks is the payment of its value which she claims has not been paid since 1920. If this is the nature of the claim, it is clear that the same has already prescribed."

Indeed, even in the earlier case of *Herrera vs. Auditor General*[3] on which the *Alfonso* ruling is based, there is an explicit recognition of the principle that "had *Herrera* [the property owner] sold his lot to the Government in 1934, and the sale duly registered, and that all that remained to be done was to pay the price, then the theory of the Government about prescription might yet find support."

The inquiry in the case at bar should therefore be whether ownership of the portion of the petitioner's property was transferred to the Government in 1937 when it was taken for road purposes. If it was, then the present action to collect its price is barred by the statute of limitations, otherwise, it is not.

As stated in the beginning of this opinion, there is no deed of conveyance to evidence a transfer of ownership to the Government, whether local or national. The petitioner, however, categorically states -- and this must be taken as an admission on his part -- that he gave a portion of his property to the municipality of Lopez in exchange for another piece of land owned by the municipality.[4] This means that the municipal government became the owner of the land by the delivery of its possession in 1937.[5] The fact that the agreement is not in writing does not militate against its validity because contracts are binding on the parties in whatever form they may have been entered into.[6] Nor is it necessary for the validity of the transfer that the exchange be registered since the rights of innocent third parties or subsequent transferees are not involved.[7]

The petitioner's action is to collect the price of the land and, as it was not filed until after the lapse of more than ten years, it is barred by the statute of limitations.[8]

ACCORDINGLY, the decision of the Auditor General is affirmed, without pronouncement as to costs.

Reyes, JBL, Makalintal, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., did not take part.

[1] G.R.L-12754, Jan. 30, 1960.

[2] G.R.L-7921, Sept. 28, 1955.

[3] 102 Phil. 875, 881 (1958).

[4] Brief for the Petitioner at 3-4.

[5] See *Gallar v. Hussain*, G.R.L-20954, May 24, 1967; *Sapto v. Fabiana*, G.R.L-11285, May 16, 1958.

[6] Phil. Civ. Code art. 1356; Sp. Civ. Code art. 1278.

[7] E.g., *Casica v. Villaseca*, G.R.L-9590, April 30, 1957.

[8] Even if the Moratorium Law were taken into account, the result would be the same, that is, the petitioner's claim is time-barred.

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