

THE CITY OF MANILA, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT ET AL., RESPONDENTS AND APPEL-LANTS.

G.R. No. 3279. March 11, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 11th day of November, 1904, the city of Manila, through its attorney, filed a petition in the Court of Land Registration for the registration of a certain parcel or tract of land described by metes and bounds in the first paragraph of said petition as follows:

"A parcel of land situated in Paco, a district of this city. It is bounded on the north by properties belonging to Chas. M. Stone, Prudencio de Leon, Asuncion Ventura, Petra Carnero y Garcia, Evaristo Roxas and brothers, Silvestra Sarmiento, Evaristo Gonzalez y Valdes, Mariano Vergara, Bernarda Yalon, Julio Gonzaga, Leoneia Mailalac, Geronimo Morales, Antonio Bautista, Doroteo Palacio, and Gualberta de los Reyes; on the south and on the east by property owned by Miguel Fabie and brothers, and on the west by properties belonging to Gualberta de los Reyes and Toribia Cruz. Beginning at the intersection of the northern line of Calle Real and the eastern line of Calle Peniafrancia (new street lines), approved on 21st December, 1903, and 17th February, 1904, respectively, by the Municipal Board, thence S. 4 degrees and 8 minutes E., 157.09 meters to the point marked "0;" thence N., 79 degrees 37 minutes W., 18.30 meters along the southern boundary of the property owned by Evaristo Gonzalez Valdes and Mariano Vergara to point No. 1; thence N. 11 degrees 25 minutes E., 6.20 meters along the western boundary of the property belonging to Mariano Vergara to point No. 2; thence N. 86 degrees 38 minutes W., 29.60 meters along the southern boundary of the property owned by Mariano Vergara to point No. 3; thence N. 4 degrees 14 minutes E., 22.49 meters along the western boundary of the property of Mariano Vergara, to point No. 4; thence N. 11 degrees 42 minutes W., 5.71 meters along the western boundary of the property belonging to Bernardo Yalon to point No. 5; thence S. 89 degrees 50 minutes W., 78.00 meters to a stone monument along the southern boundary of the property owned by Julio Gonzaga, Leoncia Manialac, Geronimo Morales, to point No. 6; thence N. 89 degrees 22 minutes W., 24.17 meters along the southern boundary of the property belonging to Antonio Bautista, to point No. 7; thence S. 55 degrees 56 minutes W., 16.81 meters along the southeastern boundary of the property owned by Doroteo Palacio to point No. 8; thence N. 86 degrees 49 minutes W., 25.50 meters along the southern boundary of the properties owned by Doroteo Palacio and Gualberta de los Reyes to point No. 9; thence S. 15 degrees 30 minutes W., 16.47 meters to a stone monument, along the eastern boundary of the property owned by Gualberta de los Reyes and Toribia Cruz to point No. 10; thence S. 7 degrees 35 minutes W., 14.16 meters along the eastern boundary of the property owned by Toribia Cruz to point No. 11; thence S. 75 degrees 39 minutes E., 14.37 meters along the northern boundary of the property of Miguel Fabie and brothers to point No. 12; thence N. 88 degrees 3 minutes E., 45.35 meters along the northern boundary of the property belonging to Miguel Fabie and brothers to point No. 13; thence S. 89 degrees 11 minutes E., 70.15 meters to a stone monument along the northern boundary of the property belonging to Miguel Fabie and brothers to point No. 14; thence S. 86 degrees 33 minutes E., 85.07 meters to a stone monument along the northern boundary of the property of Miguel Fabie and brothers to point No. 15; thence N. 83 degrees 8 minutes E., 14.49 meters along the northern boundary of the property owned by Miguel Fabie and brothers to point No. 16; thence N. 47 degrees E., 158.35 meters along the northwestern boundary of Miguel Fabie and brothers to point No. 17; thence N. 70 degrees 22

minutes W., 40.74 meters along the southern boundary of the properties owned by Charles M. Stone, Prudencio de Leon, and Asuncion Ventura (Looban) to point No. 18; thence N. 83 degrees 22 minutes W., 7.38 meters along a stone fence and the southern boundary of the properties belonging to Asuncion Ventura (Looban) and Petra Garcia to point No. 19; thence S. 30 degrees 34 minutes W., 21.12 meters along a stone fence and the western boundary of the property owned by Petra Carnero y Garcia to point No. 20; thence S. 74 degrees 58 minutes W., 8.70 meters along the northern boundary of the property of Evaristo Roxas and brothers to point No. 21; thence S. 22 degrees 4 minutes W., 34.75 meters along the eastern boundary of the property owned by Evaristo Roxas and brothers to point 22; thence N. 68 degrees 47 minutes W., 26.40 meters along the southern boundary of the property belonging to Evaristo Roxas and brothers to point No. 23; thence S. 68 degrees 47 minutes W., 85.61 meters along the eastern boundary of the properties owned by Silvestra Sarmiento and Evaristo Gonzalez y Valdes to point No. 24; thence N. 84 degrees 58 minutes W., 12.85 meters to a stone monument along the southern boundary of the property owned by Evaristo Gonzalez Valdes to point No. 25; thence N. 79 degrees 37 minutes W., 11.10 meters along the southern boundary of the property owned by Evaristo Gonzalez Valdes to point No. 0, the point of beginning. Containing 10,472.23 square meters of extension. Bearings magnetic."

The said city alleged that it was the absolute owner of the said land; that said land was assessed by the city of Manila in the sum of \$1,780, United States currency; that there existed no liens of whatever character against said land; that the land was unoccupied; that the said city obtained title to the said land by reason of being the successor to all the rights and actions of the old city of Manila (ayuntamiento de Manila), to which said property formerly belonged.

To this petition of the petitioner, the Insular Government presented the following opposition to the registration of said land:

"The Solicitor-General, representing the Insular Government, appears before the court, and states:

"I. That the city of Manila, represented by its attorney, Modesto Reyes, requests that, in compliance with the Land Registration Act, a parcel of land situated in Paco, a district of this city, of which it claims to be the absolute owner, and the description of which is specified in the petition, be inscribed in its name.

"II. That the land in question is the property of the Government of the United States under the control of the Insular Government,

"III. That by virtue thereof, the Solicitor-General opposes the inscription asked for, and requests the court to deny the petition with the costs."

To this petition of the petitioner one Geronimo Morales also presented the following opposition to the registration of a portion of the land described in the second paragraph of said petition:

"NOW comes the undersigned before this court and says:

"1. That the city of Manila, by its attorney, Modesto Reyes, has, in conformity with the provisions of the Land Registration Act, applied for the registration of a certain parcel of land located in the district of Paco, of this city, of which it alleges sole and absolute ownership, and the description of which is included in the application.

"2. That the plan and description of the said land as they appear in the petition are incorrect, for there is included in the same a part of a building lot belonging to the undersigned, and situated in the barrio of Rosario of said district, with an area of 84 meters more or less, as will be seen in the plan to be filed later.

"3. Therefore, the undersigned files his opposition to the registration applied for, as far as it has any bearing on the building lot of the undersigned which is included in the plan and description of the applicant, and this

honorable court is requested to deny the application as far as it relates to the said building lot, with the costs against the petitioner."

After the presentation of the petition on the part of the said petitioner, one of the examiners of titles of the Court of Land Registration made an examination of the title claimed by the petitioner and made the following report to the judge of the said Court of Land Registration:

"The examiner of titles of this judicial district, after going over the papers in the case of the city, represented by its attorney, Modesto Reyes, states that:

"1. The application filed by the city of Manila is not accompanied by any document relative to its alleged ownership, but sets forth that said city, as the successor in rights and interest of the former ayuntamiento de Manila, is the owner of the land described in the petition above referred to.

"2. In the office of the register of deeds there is no record of any act or contract opposing the claim of the applicant; nor does there appear, from the investigations held, any fact contrary to those quoted in the application. The present limits of the land in question may be held as correct.

"3. The city of Manila, in order to acquire title to the land above mentioned, must show the ownership which the former ayuntamiento had over said land.

"OPINION.

"Based on the above report, the undersigned is of the opinion that the title of the city of Manila, represented by its attorney, Modesto Reyes, is defective and can not be registered.

"Manila, December 7, 1904.

"AGUEDO VELARDE."

On the 14th of March, 1905, the cause was duly brought on for trial and during the trial of said cause the petitioner attempted to establish by proof the following facts: First. That said land formerly belonged to the old city of Manila (ayuntamiento de Manila) under the sovereignty of Spain.

Second. That the present city of Manila is at present the owner of said land by virtue of being the successor of the old city of Manila.

Third. That the old city of Manila from the year 1894 until the change of sovereignty in the Philippine Archipelago had rented said land, had received rents therefor, and in a general way had administered the same.

The respondent, the Central Government of the Philippine Islands, presented no proof whatever in opposition to the claim of the petitioner relying upon the fact that the petitioner was not entitled to have said land registered, for the following reasons:

First. That the land in question was public land, belonging to the Central Government; that the same had never been granted to any person or corporation or municipality by the Spanish Government.

Second, That the city of Manila, neither the present nor the old city, was the owner of said land.

On the 15th day of February, 1906, the judge of the said court filed his decision by which he denied the registration of the land claimed by the said Geronimo Morales and granted the registration of the rest of said described property in favor of the said city. Against this order allowing the registration of said tract of land the respondent duly excepted and gave notice of his intention to appeal.

The Attorney-General, representing the respondent in this court, made the following assignment of error:

"There is nothing in the record which justifies the conclusion of the judgment of the court below, to the effect that the land in question is owned by the city of Manila."

The only proof presented during the trial by the petitioner which tended in any way to support its claim was that in the year 1894 and thereafter the old city of Manila (ayuntamiento de Manila) rented said land and received the rent therefor, and that the present city of Manila succeeded to the rights of said old city. No proof was offered by the plaintiff, documentary or other, to show in any way by what right said old city exercised this right of control over said property.

We are of the opinion, and so hold, that the mere renting of property and receiving the rent therefor can not, of themselves, in the absence of other proof, support a claim of ownership of such property.

It has been argued that every pueblo organized by the Spanish Government in its insular possessions has had granted to it, as a matter of course, certain lands for public purposes, such as public commons, pasture lands, etc. Our attention has not been called to any law or royal decree in which this contention is supported and we have searched in vain to find such a provision. Upon the contrary we have found a royal decree of the _____ day of _____ showing that the people of the pueblo of Dilao (now the barrio of Paco in which this very land is located) had petitioned for a grant of a comunal, etc., and which was denied.

One of the earliest provisions of law relating to the rights of pueblos in the insular possessions of the Spanish Government is that de las reducciones, y pueblos de indios (settlements and pueblos of natives) of December 1, 1573, as amended by that of the 10th of October, 1618, found in Law VIII, Title III of Book VI of the Recopilacion de las Leyes de Indias, and which is as follows:

"The sites whereon the pueblos and settlements are to be built must have water facilities, lands, forests, entrances and exits, lands for cultivation, and an exoido (common, public land) one league long, wherein the natives may keep their cattle, without mingling them with those owned by Spaniards."

This provision of law seems to have been amplified in article 53 of the Ordinances of Good Government, dated February 26, 1768, and extended to the pueblos of the Philippine Islands by proclamation on the 11th day of September, 1801. This article 53 clearly indicates that these lands should be designated by the Spanish Government for the use and benefit de las reducciones, y pueblos de los indios. Said article 53 is in part as follows:

"It is held to be comunal (common, public) the territory of the settlements and pueblos inhabited by natives, to which, from the time of their foundation or organization, the necessary lands were allotted in conformity with Law VII, Title III, Book VI of the Recopilacion de las Leyes de Indias, etc."

This article 53 clearly indicates the following:

First. That the King continued to be the absolute owner of said lands;

Second. That the pueblos were only given the mere usufruct of the same;

Third. That the King might at any time annul such grant; and

Fourth. That a designation, of the particular land so granted, was a necessary prerequisite for the holding of the same for the purposes indicated, by the said pueblo. (See Autos Acordados, Vol. I, pp. 29, 48.)

As a further "confirmation, of the fact that the pueblos of the Philippine Islands did not have, as a matter of right, a comunal, etc., unless the same had been expressly granted, we find the following provision in the royal decree of February 28, 1883, which is as follows:

"On the recommendation of the minister for the colonies, and in conformity with the opinion submitted by the council of state, sitting in bane, I hereby decree the following :

"ARTICLE 1. The legua comunal for the Philippine Islands, under the provisions of Law VIII, Title III, Book VI, of the Recopilacion de Indias, as far as the pueblos already established and those which may be established thereafter are concerned, shall be of an area of 20,000 feet, equivalent to a league of 20 degrees, without regard to the geometrical figure resulting from the topography of the locality, or to conditions relating to property rights over the land itself or over land adjoining the same.

"ART. 2. The pueblos not having said land allotted to them may apply and obtain the same by means of the corresponding proceedings.

"ART. 3. When the conditions so require, the pueblos may institute proceedings to obtain an extension of said comunal land, in order that the latter may be in keeping with the number of inhabitants, the number of heads of cattle owned by them, and the topographical conditions of each pueblo. Given, at the palace, on February 28, 1883."

Following this royal decree we have the superior decreto of the 1st of August, 1883, relating to the legua comunal, with the following provisions:

"Legua comunal.—In order to comply with and carry out the provisions of the royal decree of February 28 of the current year, published in the Gaceta de Manila on June 28 last, and relating to the legua comunal, on the recommendation of the direccion general de administracion civil, I hereby order that the following regulations be observed:

"1. The provincial chiefs shall take special care to inform the gobernadorcillos of the towns under their control of the decree relating to the legua comunal, making them understand that the superficial extension to be occupied by the same is that corresponding to a square, the sides of which measure 20,000 feet, equivalent to a square league, (de veinte al grado), and that the land should be uncultivated or untilled.

"2. The towns not having said portion of land assigned may apply for the same to this central government through the chief of the province or district, inclosing with the petition a report of the principalia, stating the said circumstance and as many particulars as may exist in their archives regarding the matter.

"3. The said documents shall be forwarded to the direccion general de administracion civil, through the provincial chief, and the said office, upon the information from the bureau of forestry, shall recommend to me what it may deem proper.

"4. After the 'legua comunal' has been granted by this Government, the bureau of forestry shall proceed to the setting up of the boundary marks of the same, executing a certificate of the land, which, after being signed by the officer conducting the proceedings and by the principalia of the town, will be submitted for my approval through the direccion general de administracion civil.

"5. For the legua comunal uncultivated land will be selected, whenever possible, which may be in proper condition for the pasture of cattle and cultivation of building timber and the necessary industries to meet the requirements of the inhabitants.

"6. In order to increase the said communal land, when the requirements of the towns may demand, it will be necessary to institute new proceedings, which will be annexed to a statement signed by the principalia, showing the number of the inhabitants of the town, the kind and number of head of cattle owned by them, as well as an indication of the extension of the lands which, bearing in mind the local conditions, they may deem necessary to meet the requirements of the former and nourishment for the latter.

"7. These statements will be forwarded to the direccion general by the chief of the province, together with his

opinion, in which he will state whether, or not he considers the petition to be unreasonable.

"8. The offices under the department of finance will furnish the direction general de administration with the necessary documents for verifying the truth of the declarations made by the principalias of the towns, regarding the number of the inhabitants and. heads of cattle.

"9. The direccion general de administration civil, with the report of the bureau of forestry and, should it be deemed necessary, of the board of agriculture, shall recommend to me the extension to be finally marked for the legua comunal.

"10. After the area of the land has been determined by this general government, the bureau of forestry shall proceed with the appointment and the setting of marks of the new communal land, a certificate being executed in the same form as previously stated.

"11. The expenses arising from the proceedings, as well as those arising from the setting up of boundary marks of the legua comunal and its final establishment, must be paid by the town to which the concession has been granted." (Gazette No. 42, August 11.)

By the royal decree of the 23d of December, 1870, it was made necessary by monuments or otherwise to mark the division lines of the different pueblos of the Philippine Islands, (Gaceta de Madrid, February 24.)

By the royal order of the 17th of January, 1885, it was provided that, when a pueblo should show to the Government of the Philippine Islands that its legua comunal was insufficient, it might, upon petition, have such lines increased. (Gaceta de Madrid, March 15, 1885.)

The royal decree of the 19th of May, 1893, relating to the municipal government (Gaceta de Madrid, May 22 1893) contains no provisions with reference to the granting to pueblos of the legua comunal, etc.

The question of the right of pueblos in the insular possessions of the Spanish Government to public lands has come before the Supreme Court of the United States several times in its relation to pueblos in the territory acquired by the United States from the King of Spain.

In the case of *Grisar vs. McDowell* (6 Wallace, 363, 373) Justice Field in discussing this question said:

"These laws provided for the assignment to the pueblos, for their use and the use of their inhabitants, of land not exceeding in extent 4 square leagues. Such assignment was to be made by the public authorities of the Government upon the original establishment of the pueblo, or afterwards upon the petition of its officers or inhabitants; and the land was to be measured off in a square or prolonged form, according to the nature and condition of the country. All lands within the general limits stated, which had previously become private property or were required for public purposes, were reserved and excepted from the assignment.

"Until the lands were thus definitely assigned and measured oft", the right or claim of the pueblo was an imperfect one. It was a right which the Government might refuse to recognize at all, or might recognize in a qualified form; it might be burdened with conditions, and it might be restricted to less limits than the 4 square leagues, which was the usual quantity assigned."

In the case of *United States vs. Santa Fe* (165 U. S., 707), in which this same question was involved, Justice White of the Supreme Court of the United States said:

"It can not be doubted that under the law of Spain it was necessary that the proper authorities should particularly designate the land to be acquired by towns or pueblos before a vested right or title to the use thereof could arise."

Elizondo, in his work entitled *Pratica Universal Forence* (vol. 5, p. 220), makes the following statement relating to

the question presented here:

"There is nothing whatever designated by law as belonging to towns, other than that which by royal privilege, custom, or contract between man and man is granted to them, so that although there be assigned to tire towns at the time of their constitution territorio or pertinencias, which may be common to all the residents, without each one having the right to use them separately, it is a prerogative reserved to the sovereigns to divide the terminos of the provinces and towns, assigning to these the use and enjoyment, but the domain remaining in the sovereigns themselves."

Chief Justice Fuller, speaking for the court in the case of Ignited States vs. Sandoval and in the case of Morton vs. United States (167 U. S., 278, 297), said:

'Under the laws of the Indies, lands not actually to settlers remained the property of the King, to be disposed of by him or by those on whom he might confer that power. As Mr. Hall says (Chap. VII, § 122): 'The fee of the lands embraced within the limits of pueblos continued to remain in the sovereign, and never in the pueblo as a corporate body.' "

The petitioner herein not having presented proof showing that the land in question had been granted to it by the former sovereign in these Islands, and not having shown that it was entitled to said lands by virtue of some law of the present sovereign of these Islands, the Court of Land Registration was not empowered to grant the registration of said lands in favor of said petitioner. The judgment, therefore, of the lower court is hereby reversed. So ordered.

Torres, Carson, Willard, and Tracey, JJ., concur.

[1] Cases Nos 3299 and 3300, both entitled The City of Manila vs. The Insular Government, and involving the same points, were also considered at the same time, and the judgments of the Court of Land Registration, refusing to register in, favor of the city of Manila the property involved, were affirmed for reasons similar to those set forth in the present opinion.

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