

RICARDO AGUADO, PLAINTIFF AND APPELLEE, VS. THE CITY OF MANILA, AS ADMINISTRATOR OF THE WATER SUPPLY AND CARRIEDO FUNDS, DEFENDANT AND APPELLANT.

G.R.No. 3282. January 09, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

This was an action commenced by the plaintiff, as assignor of certain claims held by Tomas Luna Munoz against the defendant, on the 28th day of April, 1903, in the Court of First instance of the city of Manila, for the purpose of recovering of the city of Manila the sum of 5,621.40, with interest and costs.

The complaint contains three separate causes of action against the defendant, two of them being for coal sold and delivered to the predecessor of the present city of Manila, the Ayuntamiento de Manila,, as administrator de las aguas de Carriedo, for which the plaintiff claims there was due him upon the first cause of action the sum of 3,116.40 and upon the third cause of action the sum of P585. The second cause of action alleges that the plaintiff deposited with the said Ayuntamiento de Manila the sum of 1,920 as a guaranty for the fulfillment of the contract sued upon. The plaintiff prayed for judgment for the sum of P5,621.40, with interest and costs.

After the respective parties had filed their pleadings they entered into a stipulation as to the facts which should be admitted as true in said cause, which stipulation is as follows:

"Now come the respective parties hereto, plaintiff and defendant, duly represented by counsel, and stipulate and agree that, for the purposes of the above-entitled action, the following statement of facts shall be regarded as established and proved and that the decision in said above entitled action shall be based upon said statement of facts:

"I

"That the defendant, the city of Manila, is now and ever since the 31st day of July, 1901, has been a municipal corporation, duly organized and existing under and by virtue of the laws of the Philippine Islands.

"II.

"That on the 11th day of June, 1897, and for many years prior thereto and for more than one year thereafter, the Ayuntamiento of Manila was a municipal corporation duly organized and existing under and by virtue of the laws of the Kingdom of Spain.

"III.

"That on or about the 11th day of June 1897, Tomas Luna Muñoz made and entered into a certain contract with the said Ayuntamiento of Manila, said contract being in the terms and figures appearing in the copy thereof annexed to the complaint. (See record, pp. 4-19.)

"IV.

"That prior to the 1st day of April, 1898, under and in pursuance of the terms of said contract, the said Tomas Luna Muñoz sold and delivered unto the said Ayuntamiento of Manila 1,340.30 tons of coal and received and collected therefor, of and from the said Ayuntamiento of Manila, the sum of 16,083.60 pesos, Mexican currency, the contract price thereof; that between the 1st day of April, 1898, and the 30th day of April 1898, under and in pursuance of the terms of said contract, the said Tomas Luna Muñoz sold and delivered unto the said Ayuntamiento of Manila, 259.70 tons of coal of the value of 3,116.40 pesos, Mexican currency, at the contract price of 12 pesos, Mexican currency, per ton.

"V.

"That thereafter, to wit, on or about the 26th day of July, 1898, the said Tomas Luna Muñoz made due demand in the manner required by law and by the terms of said contract for the payment of said sum of 3,116.40 pesos, being the amount due as aforesaid for said 259.70 tons of coal delivered, as aforesaid, during the month of April, 1898. That, notwithstanding said demand, the said sum was not paid by said Ayuntamiento of Manila and the same, and the whole thereof, remained and now remains wholly due and unpaid.

"VI.

"That thereafter, to wit, on or about the 13th day of August, 1898, the said Ayuntamiento of Manila was forcibly suspended in the exercise of all of its functions by the conquest and occupation of the city of Manila by the military forces of the United States of America. That at all times between the said 13th day of August, 1898, and the 6th day of August, 1901, the Military Government of the United States of America was the acting successor of the Ayuntamiento of Manila and as such was possessed of the funds, property, and revenue theretofore in the possession of the said Ayuntamiento of Manila..

"VII.

"That at various times between the 13th day of August, 1898, and the 6th day of August, 1901, demand was duly made upon the said Military Government of the United States in and for the Philippine Islands, in the manner required by law and by the terms of said contract, for the payment of said sum of 3,116.40 pesos, Mexican currency, due, payable, and unpaid as aforesaid, and the said sum, and the whole thereof, was not paid but remained and now remains due, payable, and unpaid.

"VIII.

"That on or about the 1st day of February, 1899, the said Tomas Luna Muñoz sold, transferred, and assigned all of his right, title, and interest in and to said sum of 3,116.40 pesos, Mexican currency, unto the plaintiff herein- before named, and said plaintiff, ever since said lastnamed date, has been and now is the sole and exclusive owner of said credit of 3,116.40 pesos, Mexican currency.

"IX.

"That on or about the 6th day of August, 1901, the defendant, the city of Manila, became the acting successor of the above-named entities in the discharge of all of the municipal functions.

"X.

"That at various times since the said 6th day of August, 1901, plaintiff has made due demand upon the defendant in the manner required by law and by the terms of said contract for the payment of said sum of 3,116.40 pesos, Mexican currency, and the said defendant has failed and refused to pay said sum or any part thereof and the same remains due and wholly unpaid.

"XI.

"That in addition to the foregoing facts and under and in pursuance of the terms of said contract, said Tomas

Luna Muñoz did, on or about the 1st day of June, 1897, deposit the sum of 1,920 pesos, Mexican currency, with the said Ayuntamiento of Manila as security to guarantee the fulfillment and completion of the above-mentioned contract. That prior to the 30th day of April, 1898, said Tomas Luna Muñoz had well and truly fulfilled all the terms and requirements of said contract and had faithfully and truly discharged and fulfilled the obligation therein prescribed and contained.

"XII.

"That at various times thereafter the said Tomas Luna Muñoz and his successor in interest has made due demand in the manner required by law and by the terms of said contract for the return and repayment by the Ayuntamiento of Manila, by the Military Government of the United States in the Philippine Islands, and by the defendant, the city of Manila, respectively, for the return and repayment of said sum of 1,920 pesos, that said entities have successively wholly failed to return the whole or any part of said sum, and the whole thereof remains due, unpaid, and payable.

"XIII.

"That on or about the 10th day of February, 1809, the said Tomas Luna Muñoz sold and transferred and assigned all of his right, title, and interest in and to said sum of 1,920 pesos, Mexican currency, above mentioned, unto the plaintiff herein, and the said plaintiff ever since has been and now is the sole and exclusive owner of said credit.

"XIV.

"That on or about the 30th day of June, 1898, the Ayuntamiento of Manila had and received of plaintiff 39 tons of Australian coal for the uses and purposes of the said Carriedo waterworks; that said 39 tons of Australian coal was reasonably worth the sum of 15 pesos per ton, or a sum total of 585 pesos. That thereafter and on or about the 26th day of July, 1898, the said plaintiff made due demand in the manner required by law for the payment of said sum of 585 pesos, Mexican currency. That notwithstanding said demand said sum was not paid by said Ayuntamiento of Manila. That thereafter, at various times, said plaintiff has similarly made due demand upon the Military Government of the United States in the Philippine Islands and of the defendant, the present city of Manila, for the payment of said sum so due as aforesaid, and the same has been successively refused and denied by said entity and still remains due and unpaid,

"XV.

"That the facts contained and recited in the pamphlet entitled Carriedo y sus obras marked for identification, 'Plaintiff's Exhibit A,' in so far as they are material and relevant, are deemed to be true.

"XVI.

"That the city of Manila at the present time and ever since the organization of said city on the 6th day of August, 1901, has been in possession of the water system known as the 'Carriedo waterworks' and of the lands belonging and pertaining to said water works, and of 94 shares of the capital stock of the Banco Espanol-Filipino of the value of about 18,400 pesos, Philippine currency, which said shares of stock constituted a part of the Carriedo funds in the hands of the Ayuntamiento of Manila prior to August 13, 1898; that the dividends and income accruing to said shares have been received and collected at all times since the Cth day of August, 1901, by the defendant, the city of Manila. That said defendant, the city of Manila, has exclusive charge of the maintenance and operation of said water system, collects and receives the moneys due and payable for the consumption of the water supplied thereby, and disburses the money necessary for salaries, supplies, repairs, and improvements according to the terms and conditions of fts Charter, Act No. 183 of the Philippine Commission.

"It is further agreed and stipulated by the parties through their respective attorneys as follows:

"A.

"That on or about August 13, 1898, at the time of the suspension of the Ayuntamiento of Manila herein referred to, all funds and moneys pertaining to the said Ayuntamiento (including all moneys deposited with the said Ayuntamiento as security for the performance of contracts with said Ayuntamiento) and of the said Carriedo waterworks were turned over to the Military Government of the Philippine Islands and covered into the general funds of the said Military Government called 'Public civil funds,' which said funds were disbursed upon general orders of the Military Government of the said Islands.

"B.

"That all taxes of the city of Manila and those corresponding to the Carriedo waterworks collected during the Military Government were covered into the said 'Public civil funds' and disbursed as aforesaid.

"C.

"That all moneys and funds pertaining to the said 'Public civil funds' were, on or about September 1, 1900, turned over to the Insular Treasurer of the Philippine Islands and disbursed pursuant to appropriation by the Philippine Civil Commission.

"D.

"That in the year 1884 said Carriedo waterworks were constructed at a cost of about 1,027,000 pesos; that of the said cost price said city of Manila, by means of raising a tax upon meat, pursuant to royal order of November —, 1876; contributed a material portion.

"E.

"That since the construction of the said waterworks the Ayuntamiento has considered it necessary to make certain repairs, alterations, and extensions in the said waterworks and has made the same. That the moneys collected by the said Ayuntamiento as taxes for the use of said water by consumers, together with other incomes from the said Carriedo property, has been insufficient to pay for all of said repairs, alterations, and extensions and that the deficit has been paid by the said Ayuntamiento of Manila.

"F

"That the said Military Government in a like manner deemed it necessary and made said repairs, alterations, and extensions of said system with the money raised as taxes upon the use of said water; the proceeds from other sources pertaining to the said Carriedo being insufficient to meet said repairs, alterations, and extensions, the deficit was supplied by the said Military Government by means of said tax on meat. That the said deficits for the years 1898, 1899, 1900, 1901, and 1902 amounted to about 34,000 pesos.

"G.

"That since August 6, 1901, the city of Manila, through its Municipal Board, deemed it necessary to make further repairs, alterations, and extensions of the said waterworks and that the taxes upon the consumers of the said water, together with the incomes of all properties of the said waterworks have been insufficient to meet the said expenses, and that the said city, out of its common funds, has paid the difference for said repairs, alterations, and extensions. That said deficit for the years 1903, 1904, to June 30, 1905, amounted to 9,205 pesos, Philippine currency. "H.

"H.

"That the said tax upon meat collected pursuant to said royal order of November, 1876, has been collected from said date up to and including July, 1902, when the same was repealed.

"It is further agreed that up to the 13th day of August, 1898, the funds of the Carriedo waterworks were kept separate and distinct by the Ayuntamiento of Manila."

It was further stipulated by the parties to the action that the following exhibits should constitute a part of the agreed statement of facts:

- (1) A publication entitled Carriedo y sus obras, as Exhibit A of the plaintiff.
- (2) A deposition present by Carlos de las Heras dated th2 22d day of May, 1902.
- (3) Exhibits A, B, and C of the record.
- (4) Exhibit B of the plaintiff, which is a document referring to the payment made to Tomas Muñoz for the coal delivered in March, 1898.
- (5) Exhibit C of the plaintiff, being the record of the delivery of the coal by the said Tomas Muñoz, with the unpaid bill therefor.

After a consideration of the facts stipulated between the respective parties to the action and the foregoing exhibits, the lower court on the 27th of March, 1906, rendered a judgment against the defendant, the city of Manila, as trustee, for the sum of P5,621.40 and interest, amounting to the sum of P3,260.98, making a total sum of P7,982.38 and costs, and ordered that an execution be issued to be levied upon the property of the said Carriedo fund, consisting, as per said stipulation, of the Carriedo waterwork, the lands belonging and pertaining to the said waterworks, and 94 shares of the capital stock of the Spanish-Filipino Bank, now in the hands of and being administered by the defendant, as trustee of the said Carriedo fund.

From this decision the defendant appealed to the Supreme Court and made the following assignments of error:

"(1) The court erred in finding that the contract entered into by and between Tomas Luna Munoz on June 11, 1897, and the Ayuntamiento of Manila was a contract between said Munoz and the Carriedo funds and waterworks.

"(2) The court erred in finding that the title of the city of Manila to the Carriedo funds and waterworks Avas one of possession and not of complete ownership.

"(3) The court erred in finding that the Carriedo funds and waterworks constituted and still constitute a trust estate and that the present city of Manila has been since its organization trustee for the same.

"(4) The court erred in finding that the contract between the Ayuntamiento of Manila and the said Muñoz was made with reference to the funds in trust.

"(5) The court erred in finding that the property styled 'Carriedo funds and waterworks' is responsible for the payment of the debt sued for by plaintiff.

"(6) The court erred in finding that Ricardo Aguado was entitled to recover from defendant city of Manila as trustee of the Carriedo fund the sum of 7,982.38, Philippine currency, and the costs of this suit, or any sum of money whatever, for the coal delivered under his contract by the said Muñoz to the said Ayuntamiento of Manila, and for money deposited by said Muñoz with the said Ayuntamiento as guaranty for carrying out said contract.

"(7) The court erred in ordering execution against the property of the city of Manila consisting of waterworks and lands pertaining to it and to 94 shares of the Spanish Filipino Bank.

"(8) The court erred in finding that the said waterworks, lands, and shares are subject to execution.

"(9) The court erred in finding that the title of the city of Manila was not of absolute ownership but as trustee for said lands and shares.

"(10) The court erred in finding that the Ayuntamiento of Manila could be trustee of a trust estate for the benefit of its inhabitants and act as such with regard to contracts in respect of such funds.

"(11) The court erred in finding that the present city of Manila may be a trustee of a trust estate for the benefit of its inhabitants and act as such with regard to contracts in respect of such funds.

"(12) The court erred in finding that a particular fund belonging to the city of Manila can be subject to suit and execution before the same has been appropriated by the United States Philippine Commission.

"(13) The court erred in giving judgment in favor of plaintiff against defendant (sued as fideicomisario and administrator of the Carriedo waterworks) as trustee for said works.

"(14) The court erred in giving judgment against defendant and granting execution against its property."

The appellant assigns many errors alleged to have been committed by the lower court. The questions presented by all the said assignments of error are (1) whether or not the present city of Manila is liable under the contracts referred to in the agreed statement of facts, for the obligations created therein by the old city of Manila (Ayuntamiento de Manila) as its successor, and (2) if it is, whether the plaintiff is entitled to a writ of execution against any of the property of the present city for the purpose of satisfying that liability when the same has been reduced to a judgment.

The lower court held that the present city of Manila was liable upon such contracts, upon the theory that it was the successor of the old city of Manila (Ayuntamiento de Manila) as it existed under the Spanish Government. The lower court held that the old city of Manila (Ayuntamiento de Manila) was the trustee and administrator of the Carriedo waterworks, and as such trustee was responsible for all the debts created or contracted in the administration of such works. This fact is neither admitted nor denied in the agreed statement of facts; neither is there anything in the record which justifies that conclusion. The contracts upon which the plaintiff relies for recovery in no way indicate that the Ayuntamiento de Manila made said contracts as trustee, nor in a representative capacity, but, upon the contrary, the contracts themselves show that they were made by the Ayuntamiento de Manila with the assignor of the present plaintiff simply as the Ayuntamiento de Manila and not as trustee or agent. Gur conclusion is, then, upon this question, that the contract which the assignor of the present plaintiff made with the Ayuntamiento de Manila was made with the old city in its corporate capacity simply and not in a representative capacity as trustee or agent. If there has been a violation of the terms of the contract such violation was made by the Ayuntamiento de Manila and not by the present city of Manila. This conclusion makes it unnecessary for us to discuss the relation of trust so ably presented in the briefs of the different attorneys.

A municipal corporation is a governmental agent of the state, given authority to govern the people in a limited portion of the state. This power, however, is limited to certain particular governmental functions, which are always expressed in writing in the form of a charter or grant of powers. To ascertain what this power is in each particular case, reference must be made to such grant of powers. Powers not expressly given therein or necessarily implied from such express powers can not be exercised by such governmental agent.

Experience has taught nations that when men congregate in large numbers in a small portion of the state, it is convenient to permit such persons, in a limited way, to govern themselves, the state retaining, the authority to modify, enlarge, restrain, or to absolutely revoke such grant of power at any time this convenience ceases. In all cases a municipal corporation is a mere instrumentality of the state for the convenient administration of a local government over limited territory, and as such is vested with subordinate power for local purposes only. The very moment it subverts these powers or arrogates to itself others not granted, or for any other reasons deemed to be

sufficient, the state may revoke its authority, dissolve such corporation, and bring all the inhabitants and such property again under the direct control of the state or central government in all their relations among themselves and with the state. There is no contract between the state and the public that the charter of a city shall not be at all times subject to legislative control. There is no such thing as a vested right held by any individual in the granting of legislative power to municipal corporations. (*Meriwetlier vs. Garrett*, 102 U. S., 472, 511; *U. S. vs. Ry. Co.*, 17 Wallace, 322; *Commissioners vs. Lucas, Treasurer*, 93 U. S., 108; *Philadelphia vs. Fox*, U Penn. State, 169; *Cooley, Constitutional Limitations*, 192, 193.)

Many instances might be cited to show where the central government has exercised this prerogative. It being a doctrine well established then that a municipal corporation is a mere agent of the state, what then is the status of said corporation when the state itself is destroyed? Certainly the general consequences of the death of the principal must follow in its effect upon, the authority of the agent. The death of the principal always revokes the agency when there are no vested rights involved. A municipal corporation has no vested right to exist as such. The state may at any time revoke its charter. Of course the state might, by such revocation, incur certain moral obligations, but the performance of these obligations would always rest upon the conscience of the law-making or charter-granting authority of the state. The courts have no equitable or legal authority to compel the state to comply with obligations of this kind in the absence of proper legislation.

The principal of the old city of Manila (*Ayuntamiento de Manila*) was the Spanish Government in the Philippine Islands, and when that Government, on the 11th day of April, 1899, at least, ceased to exercise any power or control over this territory (the Philippine Islands), all its agents, including the *Ayuntamiento de Manila*, also ceased to exist, and therefore this agent was without authority either, to make or to perform contracts. There was no functionary of either Government left with any authority whatever. The Spanish Government, with all its governmental agencies, upon the 11th day of April, 1899, at least, ceased to have or to exercise any functions within the Philippine Islands. Upon that day the people who formerly constituted the *Ayuntamiento de Manila* became subject to the general laws (not political) applicable to the whole territory and to such rules and regulations as the new authority might see fit to promulgate. After that date all persons who had rights or obligations preexisting against such defunct governments were left to their remedy against such defunct governments, unless such rights were vested rights, or unless by treaty obligations or otherwise the new government had in some way obligated itself to respond to such individuals. It becomes important, therefore, to ascertain whether the new authority has in any way obligated itself to respond to the plaintiff herein. Our attention is called to article 8 of the treaty of Paris. But this is a compact between the United States Government and the Crown of Spain, and of course the city of Manila could not, if it would, be obligated by any terms of that compact without an express authorization on the part of the proper power or authority.

The city of Manila is in no way the successor of the *Ayuntamiento de Manila* in law. The mere fact that the present authority in these Islands has given to the present city powers like those exercised by the *Ayuntamiento de Manila* in no way makes the former the successor of the latter. It is an entirely new organization, a new agent of a new principal, and only has such authority, such powers, and such obligations and responsibilities as the new principal has seen fit to grant and impose. The grant of powers (the Charter of Manila) has been examined in vain to find anything which would make the present city of Manila liable in any way to comply, even though it desired to do so, with the obligations contracted by the *Ayuntamiento de Manila*, and therefore we must hold, as we do hereby, that the present city of Manila is in no wise responsible to the plaintiff upon the contracts made between its assignor and the old city of Manila.

These foregoing conclusions do not amount to a denial of the obligations or a refusal to comply with the same. They are simply that the obligations upon which the plaintiff seeks to recover never were incurred by the present

city of Manila; neither can the foregoing conclusions be construed to be an attempt to violate the terms of the contracts. They are simply to the effect that no contract obligation, with reference to the claim of the plaintiff, ever existed.

These conclusions make it unnecessary for us to discuss the second question above suggested, for the reason that the city not being liable upon the contract, no question as to the right to take out a writ of execution against the property of said city can arise in the present case.

For the foregoing reasons the judgment of the lower court is hereby revoked, and, without any finding as to costs, it is so ordered.

Arellano, C. J., Torres, Carson, and Willard, JJ., concur.

Mapa, J., did not sit in this case.

Tracey, J., concurs in the result.

[1] Cases Nos. 3449, Vasquez, plaintiff; 3558, Rosario et al., plaintiffs; and 3703, Otero et al., plaintiffs, all seeking to charge the present government of Manila with liabilities of the old Ayuntamiento de Manila, were decided upon the same principle, citing Aguado vs. City of Manila.

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