

RICARDO PARDO Y PUJOL, PLAINTIFF AND APPELLANT, VS. THE MUNICIPALITY OF GUINOBATAN, DEFENDANT AND APPELLEE.

G.R. No. 34021. March 03, 1932

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-34021/>

VILLA-REAL, J.:

This is an appeal taken by the plaintiff, Ricardo Pardo y Pujol, from the judgment of the Court of First Instance of Albay, the dispositive part of which reads as follows:

"Upon the forgoing considerations, the complaint is hereby dismissed, afd it is held that the plaintiff is not entitled to such income as may be derived from the market of Guinobatan for a period of six years, seven months, and sixteen days, beginning on July 30, 1928; and the preliminary injunction issued is hereby dissolved. The defendant's counterclaim is also dismissed, without special pronouncement as to costs."

In support of his appeal, the appellant assigns the following alleged errors as committed by the court below in the judgment appealed from, to wit:

"1. In finding that the plaintiff's claim was decided on December 18, 1920, in civil case No. 2603 of Albay.

"2. In finding that the plaintiff attempted to sell to the defendant corporation the remainder of the term of his franchise for the sum of P1,500.

"3. In finding that one of the principal causes why the plaintiff, delayed the reconstruction of the public market was his lack of funds for that purpose.

"4. In finding that the defendant municipality had no power to authorize the plaintiff to complete the full term of his franchise; and that its contract so to do, was null and void.

"5. In finding that the plaintiff had no right to complete the enjoyment of the full term of 40 years' franchise interrupted from 1912 to 1918.

"6. In failing to find that the plaintiff is entitled to continue the enjoyment of his right of exclusive public market for 6 years, 7 months, and 16 days.

"7. In failing to grant the final injunction as prayed for by the plaintiff."

The present case originated in a complaint filed by the plaintiff, Ricardo Pardo y Pujol, against the municipality of Guinobatan, praying, for the reasons given: (a) That a preliminary injunction be issued against the defendant municipality, its president, vice-president, councillors, secretary, treasurer, constables, and other employees and officials, restraining them from depriving the plaintiff of his right to the income derived from the public market of Guinobatan ; (6) that after due hearing the injunction be declared final for a period of six years, seven months, and nine days; and (c) that the plaintiff be granted any other adequate remedy, with costs against the defendant.

The defendant filed an amended answer on October 14, 1929, denying generally and specifically each and every allegation in the complaint, and setting up five special defenses, and one counterclaim. The defendant prays that

the complaint be dismissed, dissolving the preliminary injunction issued, and that the plaintiff be ordered to make the necessary repairs on the rebuilt old market of Guinobatan so as to make it sanitary, or, in default thereof, to pay the defendant the amount necessary to have such repairs made, that is, P1,500; to return possession of said building to the defendant and to reimburse to it the amount collected as rent from August 1, 1928 to the middle of November, 1928, that is, P1,500, with costs.

For the determination of the questions raised in this appeal the following facts, established by a preponderance of the evidence, must be stated:

On August 4, 1888, Ricardo Pardo y Cabanas, father of the plaintiff and appellant, Ricardo Pardo y Pujol, obtained from the former Spanish Government an administrative franchise (Exhibit A) to build and control a public market on his land, situated in the municipality of Guinobatan, Province of Albay, with the privilege of enjoying the rent thereof for a period of forty years, after which both the market building and the lot, as well as the subsequent rent, would become the exclusive property of said municipality.

On July 30, 1888, the building was completed; it was thrown open to the public with the due approval of the government, and the period of forty years began to run. (Exhibit C.)

On January 2, 1912, the building was totally destroyed by fire.

On January 31 of the same year, the municipal council of Guinobatan, through resolution No. 17, series of 1912, granted to one Francisco Olaguera, as the highest bidder, the privilege of establishing and controlling a public market for a period of four years at an annual rental of P1,500.

On March 30, 1912, the said municipal council of Guinobatan, by means of resolution No. 51, series of 1912, authorized its president to offer the plaintiff, Ricardo Pardo y Pujol, the amount of P1,500 to waive his exclusive right to establish the market.

On April 16, 1912, the plaintiff, Ricardo Pardo y Pujol, signified his willingness to accept the offer, but payment had to be deferred on account of the difficulty in raising the necessary amount. (Exhibit B; resolutions Nos. 57 and 58, series of 1912.)

On April 30, 1912, one Vergo D. Tufexis, a judgment creditor of the plaintiff, notified the municipal council of Guinobatan that he had acquired, at a judicial sale made by the sheriff on September 30, 1911, the right of the plaintiff to operate a market granted in said franchise, so that the council had to suspend the effects of the aforementioned resolution No. 51. (Exhibit B; resolution No. 61, series of 1912.)

On August 31, 1912, the municipal council of Guinobatan resolved to construct a modern market, indemnifying the plaintiff, Ricardo Pardo y Pujol, for the rescission of his franchise. (Exhibit B; resolution No. 134, series of 1912.)

On July 31, 1913, the municipal council paid Francisco Olaguera the sum of P1,000 for the rescission of his contract of lease of the market, which was to expire on February 1, 1916 (Exhibit B; resolutions Nos. 114, 119, 122, and 130, series of 1913), pursuant to a satisfactory settlement of his claim against the municipality of Guinobatan in civil case No. 1801. (Exhibit D.)

On November 26, 1914, the modern market of the municipality of Guinobatan was thrown open to the public (Exhibit B; resolution No. 180, series of 1914) in a different place, and it remained as a public market belonging exclusively to the municipality of Guinobatan.

On December 24, 1915, this court rendered the judgment in G. R. No. 9865, civil case No. 1804 of the Court of First Instance of Albay, entitled Tufexis vs. Olaguera and Municipal Council of Guinobatan, affirming the order

of the lower court sustaining the demurrer set up by the municipality of Guinobatan on the ground that the plaintiff had not set up in his complaint facts sufficient to constitute a cause of action.[1]

On or about May 10, 1917, the herein plaintiff and appellant, Ricardo Pardo y Pujol, went to the house of building contractor Constantino Stamatalakis to propose the construction of a market building at the place where the old market destroyed by fire was located. As the contractor learned that the plaintiff did not have sufficient funds to pay for the work (Exhibit E, pp. 24 and 25) he requested the latter to look for other persons who were solvent, and who would answer directly to said contractor for the cost of the construction of the building; and to that end the contract Exhibit 7 was executed on May 17, 1917 between Ciriaco Chunaco, Vicente Olmos and Irene Jaucian de del Rosario, on the one hand, and Constantino Stamatalakis, on the other, whereby the former undertook severally to pay him the sum of P2,500 for the construction of the market building.

On July 23, 1917, upon learning that the plaintiff was constructing his market building, the municipal council of Guinobatan prohibited such construction and ordered the municipal president to have all the construction material removed from the premises. (Exhibit B; resolution No. 101, series of 1917.)

On August 11, 1917, the said municipal council of Guinobatan by resolution No. 113, series of 1917, ordered the plaintiff to remove all construction material on the site of the old market destroyed by fire within three days, with the warning that, upon failure to do so, the municipal police would carry out the order.

On August 16, 1917, the plaintiff filed a petition in the Court of First Instance of Albay, civil case No. 2603, for a writ of injunction and damages, praying that the municipal council of Guinobatan be ordered to desist from its opposition to the plaintiff's construction of the new market building upon the site of the old one that was destroyed by fire. (Exhibit E.)

On August 18, 1917, the Court of First Instance of Albay issued a writ of preliminary injunction, restraining the defendant municipal council from obstructing the plaintiff's aforesaid construction. (Exhibit E, page 16.)

On October 31, 1918, the plaintiff Ricardo Pardo y Pujol filed in the same court a supplementary complaint for the immediate closure of the modern market constructed by the municipality of Guinobatan, on the ground that it was prejudicial to the public market belonging to him, which had been opened to the public, being a source of ruinous competition. (Exhibit E, page 41.)

On November 23, 1918, the Court of First Instance of Albay ordered the immediate closure of the aforementioned modern market, and the transfer of all the stands and stalls therein to the plaintiff's market. (Exhibit E, pp. 51 et seq.)

On December 15, 1918, the parties to said civil case No. 2603 entered into an agreement, approved by the court, whereby the parties waived damages, and the defendant municipal council undertook to recognize and respect all the rights and privileges acquired by the plaintiff through administrative franchise Exhibit A, and accepted all the obligations imposed upon it by said administrative franchise, and bound itself to obey everything ordered in the preliminary and final injunctions issued against it by the court. (Exhibit E, p. 84.)

About December 18, 1920, the plaintiff herein again entered upon the enjoyment of the privileges and benefits to which he was entitled by virtue of the aforesaid administrative franchise Exhibit A.

At the plaintiff's petition, on October 18, 1925, the municipal council of Guinobatan, through resolution No. 112, series of 1925, granted the plaintiff an extension of his franchise, which expired on July 30, 1928, of six years, ten months, and sixteen days, authorizing the municipal president to draw up the proper document. (Exhibit C, pp. 12, 13.)

On October 14, 1925, the plaintiff and the defendant executed a document (Exhibit C), approved by the provincial board (Exhibit 2), which included the aforesaid resolution No. 112, series of 1925.

On November 19, 1925, the municipal council of Guinobatan decided by a majority of votes to reconsider the said resolution No. 112, series of 1925. (Exhibit 2.)

On April 28, 1927, said resolution No. 112, series of 1925, was revoked at the instance of the then Chief of the Executive Bureau, Vicente del Rosario. (Exhibit 3.) October 21, 1928, at the suggestion of said Chief of the Executive Bureau, the municipal council of Guinobatan resolved to take immediate possession of the public market reconstructed by the plaintiff. (Exhibit 5.)

On November 7, 1928, the defendant municipality took possession of the aforesaid market, ejecting the plaintiff-appellant, Ricardo Pardo y Pujol, therefrom.

The first question to decide in this appeal is whether the delay in the reconstruction of the market belonging to the plaintiff, which was destroyed by fire, and which resulted in the suspension of the use of his franchise until October 31, 1918, was due to acts of the defendant municipal corporation.

We have seen that the plaintiff could not begin the reconstruction of his market building until May, 1917, when he found persons who were willing to guarantee the cost of the work to the contractor. The fact that the defendant offered to buy out the plaintiff's rights to the remaining time under the franchise, and that the sale fell through because the municipal treasury failed to collect sufficient funds, was not a legal or necessary obstacle to the plaintiff's preparation for the reconstruction and completion of his market once the negotiations for the sale of his rights to the municipality had fallen through, and the municipality can in no way be held responsible for the delay.

Furthermore,, the matter of damages sustained by the plaintiff from the municipality's interference with the reconstruction of his market has already been passed upon in the civil case No. 2603 of the Court of First Instance of Albay, instituted by the plaintiff herein against the defendant herein on August 16, 1917, the judgment being an approval of the agreement entered into by the parties, in the second clause of which they, respectively waived their claims for damages and costs. The damages claimed in that case included those sustained by the plaintiff because of his inability to enjoy the franchise from the time the fire destroyed the market until it was rebuilt and opened to the public. If this is so, any liability the defendant might have incurred by depriving the plaintiff of the use of his franchise during- the time he was unable to reconstruct his market has already been adjudged in that case, in which he waived his rights to said damages.

There is therefore no question as to whether the defendant municipality of Guinobatan is liable for depriving the plaintiff of the use of his franchise from 1912 to 1917, and even if there were, it would be *res judicata*.

The second question to be determined is whether the extension of six years, ten months, and sixteen days of the plaintiff's franchise by the municipality of Guinobatan, which expired on July 30, 1928, is legal and valid.

We have seen that the delay in the construction of the plaintiff's market building was not attributable to any fault of the defendant municipal corporation, and that all claims for damages which such corporation might have caused the plaintiff by interfering with such construction have been definitely settled in civil case No. 2603, cited *supra*, so that the period elapsed from the destruction of the old market to the building of the new one must be counted against the franchise which expired on July 30, 1928; consequently, the privilege of six years, ten months, and sixteen days from July 30, 1928, which the municipality of Guinobatan granted to the plaintiff, could not be regarded as an extension of his former franchise, but rather as a new franchise. If the plaintiff's old franchise expired on July 30, 1928, as the plaintiff himself impliedly recognized in applying for an additional period, the defendant became ipso facto the owner of the building and the lot upon which it stands, in accordance

with article 4 of said franchise.

"Art. 4. Upon the expiration of said term, both the land and the building constructed thereon "shall become the property of and delivered to the government in good condition."

If the municipality of Guinobatan already owned the market building constructed by the plaintiff as well as the lot upon which it was built, said municipal corporation could not let that market save in accordance with the legal provisions in force upon the matter.

Section 2319 of the Administrative Code provides as follows:

"Sec. 2319. Letting of municipal ferry, market, or slaughterhouse to highest bidder.—When any ferry, market, or slaughterhouse belonging to a municipality is to be let to a private party, the same shall, unless otherwise directed by the Department Head, be let to the highest and best bidder for the period of one year or, upon the previous approval of the provincial board, for a longer period not exceeding five years, under such conditions as shall be prescribed by the Department Head."

According to the legal provision just quoted, inasmuch as the market in question became the property of the municipality of Guinobatan, the latter could not let it to anyone except by public auction and with the approval of the provincial board and the Executive Bureau, if the period is for more than one year, but not to exceed five years. As these requirements of the law were not complied with in granting the new franchise to the plaintiff, the municipal ordinance granting the franchise is null and void.

Wherefore, finding no error in the judgment, appealed from, it is hereby affirmed in toto, with costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Imperial, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.