

LA CAPELLANIA DEL CONVENTO DE TAMBOBONG, PETITIONER AND APPELLANT, VS. GUILLERMO ANTONIO ET AL., RESPONDENTS AND APPELLANTS.

G.R. No. 3543. October 01, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

Lino Cajili, as parish priest of the Roman Catholic Church of Tambobong and administrator of the lands of the capellania of the convent of Tambobong, filed a petition in the Court of Land Registration asking that the said capellania be inscribed as the owner of the tract of land described in the petition, having an area of 33 hectares 72 ares and 33 centares. Claro Santiago appeared and opposed the petition as to a part of the land therein described. Raymundo Andres also appeared and opposed the petition so far as it referred to a tract of about 13 hectares in extent. Guillermo Antonio and twenty-seven others appeared and opposed the petition on the ground that they were the owners of certain portions of the land sought to be inscribed. Judgment was rendered in the court below supporting the opposition of Claro Santiago, and the opposition of Raymundo Andres as to the 13 hectares above mentioned. Judgment was entered in favor of the petitioner as to all of the land except that as to which the said two oppositions were sustained. From the decree of the court sustaining these two oppositions, the petitioner appealed, but in this court he has neither assigned as error nor argued in his brief the rulings adverse to him made in the court below. His appeal must, therefore, be considered as abandoned.

From the final decree of the court below against Guillermo Antonio and others, they have appealed and the only questions to be resolved relate to their appeal. The evidence relied upon by the capellania to prove its ownership of the land in controversy was a deed executed by the Spanish Government on the 30th day of September, 1891, by the terms of which it granted and conveyed to Fr. Patricio Martin, as administrator of the lands of the capellania of the convent of Tambobong, a tract of land located as described in the petition, with an area of 23 hectares 36 ares and 2 centares. This deed was issued in accordance with the provisions of law relating to the adjustment of titles to the public lands of the State. It contains the following clause:

"And a due note of this title will be recorded at the inspeccion general de montes, presenting the same to the chief of the province for inscription in the registry prescribed by the circular of December 6, 1881, and in order that the possession legalized by the present title may be published and ratified by the usual notices.

"Attention is called to the fact that, in accordance with the provisions of the Mortgage Law, if the present title is not recorded in the corresponding registry of the property, it will not prejudice any third person."

The provisions of this deed in regard to its annotation in the Forestry Bureau and in the office of the provincial governor were complied with. It was also presented to the registry of property on the 12th day of November, 1891, and a provisional annotation thereof was then made which, on the 11th day of March, 1895, was converted into a final inscription.

The appellants cite in their brief the provisions of articles 4, 11, and 12 of the royal decree of the 26th of January,

1889, relating to the publication of notices, the survey of the lands, and adverse claims which may be made thereto. It may be noted in passing that this royal decree relates to the sale of public lands in the Philippines and not to their adjustment. The adjustment of such public lands was, at the time this deed was issued, governed by the royal decree of August 31, 1888 (Berriz, Anuario of 1888, p. 120), and the regulations for carrying this decree into effect, dated October 20, 1888 (p. 124 of the same volume). The claim of the petitioner in this respect seems to be that these provisions relating to the publication of notices, the survey, and adverse claims apply to the notices mentioned in that part of the deed which has been above quoted; but an examination of similar provisions in the royal decree and regulations of 1888 shows that all of these proceedings were taken before any deed was issued and these provisions have nothing whatever to do with the notices which are referred to in the deed. When the deed was executed by the Government, it passed the title to these lands out of the State to the petitioner. In some cases, after the deed was granted, the owner of the land was judicially put into possession thereof, but such proceedings were not at all necessary to complete his title. He was allowed to take such steps but not required to do so. (Art. 14, decree of August 31, 1888; art. 30, regulations of October 20, 1888.) It is to this judicial possession that the said clause in the deed refers.

A great deal of space in the appellants' brief is devoted to a discussion of the record of this deed in the office of the registry of property. It will be noticed that the deed itself does not require such a record. It contains a notice to the owner that if it is not recorded it can not prejudice third persons; so, even if we assume that the document was never properly recorded in the registry of property, as claimed by the appellants, their position would not at all be strengthened unless they came within the definition of third persons.

Upon the execution of the deed, the capellania became the owner of the property and it will continue still to be the owner unless its failure to record its title has prejudiced some third person. None of the twenty-eight appellants has ever recorded in the registry of property any deeds or other instruments relating to any part of this land. None of them, with the possible exception of Angel Luna, ever had any written evidence of ownership of any of the lands. Their only claim of ownership rests upon their possession of the property. They have not in any way been prejudiced by the failure of the petitioner to record its deed. They are not third persons within the meaning of the Mortgage Law, and as to them the petitioner lost no rights by such failure. (Fabian vs. Smith, Bell & Co.,[1] 5 Off. Gaz., 576; Legislacion Hipotecaria, Galindo y Escosura, vol. 4, p. 670.)

The appellants cite the royal order of the 12th of January, 1893, in which it is provided that deeds such as the one in question must necessarily be recorded in the registry of property. It will be observed that this royal order imposes no penalty for failure to so record. If such failure made the deed void, the State is the only person authorized to maintain an action to annul it. In the case of the Compañía General de Tabacos vs. Topiño (4 Phil. Rep., 33), the court said at page 36:

"The defendants, not being persons bound either principally or subsidiarily by virtue of that contract of sale between the Spanish Government and those original grantees, they can not maintain the action of nullity of which they seek to avail themselves as a defense in this suit."

Upon the question of fact concerning the relation which the appellants, as occupants of the land, bore to the capellania, we can not say that the evidence preponderates against the finding of the court below, which was against them.

In no one of the answers filed by the appellants was any question raised as to the personality of the capellania. Nothing is said upon this point in the decision of the lower court, and it seems that this matter was not discussed at the trial below. Neither do we understand that any question of that kind is raised in the brief of the appellants in this court. Something is said in that brief about the views of the registrar of property upon the point, and it is noted that he inscribed the land in the name of the parish church of Tambobong, but this is of no importance in the view

we take of the case, for we hold that the title of the petitioner is good without any registry at all. The question as to whether this capellania is or is not a juridical person is, therefore, not decided in this case.

On the 4th of October, 1905, the court below filed what is called a decision. In this document he stated the views which he had regarding the evidence of the several defendants. No order for judgment of any kind was made in this decision; on the contrary the only order is to the effect that the trial is reopened for the purpose of determining the location of the land of certain defendants other than these appellants and for the purpose of allowing the petitioner to file an amended application. No order was made either denying or granting the prayer of the petitioner. On the 23d of October, 1905, another decision was filed by the court, after the presentation of the amended petition, in which final judgment was ordered, directing the inscription of the land described in the amended petition in favor of the petitioner.

The appellants claim that in rendering two decisions in the case the court below committed an error. We do not think this claim can be sustained. It was within the power of the judge below to open the case for the admission of further evidence and for the presentation of an amended petition. That was all that the first decision amounted to. Any other rule would work great hardship upon the petitioners in that court, and would require them to commence an entirely new proceeding when a slight amendment in the proceedings already instituted would accomplish the same result.

The judgment of the court below as to the above-mentioned appellants is affirmed, with the costs of this instance against them. So ordered.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

[1] Page 496, *supra*.

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