

TIGLAO VS. GOVERNMENT OF THE PHILIPPINE ISLANDS. MARCELO TIGLAO, PLAINTIFF IN ERROR AND APPELLANT, VS. THE INSULAR GOVERNMENT OF THE PHILIPPINE ISLANDS ET AL.*G.R. No. 37. January 19, 1910*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-37/>

This case comes by writ of error and appeal from a judgment of the Supreme Court of the Philippine Islands, affirming a judgment of the court of land registration, which denied registration of a tract of land. It is admitted that the facts as found by the two courts may be assumed to be true (*Reavis vs. Fianza*, 215 U. S., 16, ante, 1017; 30 Sup. Ct. Rep., 1) ; but apart from the concurrence of the courts below, the proper proceeding in a case of this kind is by writ of error, and therefore the appeal is dismissed (*Carino vs. Insular Government*, 212 U. S., 449; 53 L. ed., 594; 29 Sup. Ct. Rep., 334). So much being established, the grounds on which the plaintiff in error can claim title may be stated in a few words. On July 13, 1873, the gobernadorcillo and principales of the town of Mabalacat, in the Province of Pampanga, Luzon, executed an instrument, marked O. K. by the parish priest, purporting to grant the land, with qualifications not needing to be noticed, to one Rafael Lacson, under whom the plaintiff in error claims. Possession was held until 1885, and since then has been abandoned. The land was public land. The question brought here were whether the original grant was valid, or, if not, whether the possession that followed it without interruption for ten years and more conferred title by prescription under the royal decree of June 25, 1880. This decree states the rule of prescription in the usual terms of the civil law. It confers ownership on those who shall establish that they have possessed the lands in question for the requisite time under just title and in good faith. (See Civil Code, arts. 1957, 1952, 1953.)

As we understand the later briefs filed in behalf of the plaintiff in error, the vain attempt to justify the grant under the *Recopilacion de Leyes de las Indias*, Book 4, title 12, law 1, is given up, and therefore we shall spend no time upon that. There is, however, an effort to support it under a decree of January 4, 1813 (1 Reynolds, Spanish and Mexican Land Laws, 83.) This was a scheme of the Cortes to reduce public and crown lands to private ownership, after reserving one half for the public debt. When certain preliminaries had been accomplished as to which we have no information, the other half was to be allotted in the first place to retired officers and soldiers who had served in the present war, etc., as a patriotic reward. Of the remaining land, there was to be given, gratuitously and by lot, to every resident of the respective towns who applied, a tract, under certain limitations. The proceedings on these grants were to be had by the constitutional common councils, and the provincial deputations were to approve them. Although this decree purported to apply to crown lands "in the provinces beyond the sea" as well as to those in the Peninsula, it would seem, on the face of it, to have been intended for Spaniards, and to have had but doubtful reference to the natives of conquered territory.

But there are other answers to the suggestion that are free from doubt. The decree has been said to have been repealed in the following year. (*United States vs. Clarke*, 8 Pet., 436, 455; 8 L. ed., 1001, 1008; Hall, Mexican Law, 48.) But compare *United States vs. Vallejo* (1 Black, 541; 17 L. ed., 232), *Hayes vs. United States* (170 U. S., 637, 653, 654; 42 L. ed., 1174, 1180, 1181; 18 Sup. Ct. Rep., 735.) But even if it be assumed, as it is by the argument for the plaintiff in error, that either that or later legislation to similar effect instituted a working system in the Philippines—a large assumption—it is admitted that the conditions of the supposed gratuity were not

fulfilled. Our attention has not been called to any law giving authority to the ill-defined body that attempted to make the grant. The land was not distributed by lot, and the essential requirement of approval by a higher authority was wholly neglected. In view of the admission to which we have referred, we find it unnecessary to follow the learned and able argument of the Solicitor-General. There is a hint, to be sure, that the grant may be presumed to have satisfied native custom, and may be sustained upon that ground. But such a notion would be a mongrel offspring of Spanish law and ignorance, and no reason is given for making the presumption other than a guess. Unauthorized grants of public lands by subordinate officials seem to have been a noticeable feature in other

Spanish colonies. (*Whitney vs. United States*, 181 U. S. 104, 114, 115; 45 L. ed., 771, 775, 776; 21 Sup. Ct. Rep.] 565.) The real object of the reference to the decree of 1813 is to found a claim of prescription by showing a just title for the possession which is proved to have been maintained for ten years. Lacson, the original grantee, held the land until 1881, when he conveyed it to Pedro Carrillo and his wife. Possession was abandoned in 1885 without further change of title. Therefore the only "just title" to which the possession can be referred is the original grant. The phrase *justo título* is explained to mean a title such as to transfer the property (*Schmidt*, Civil Law of Spain and Mexico, 289, 290; see *Partidas*, law 18, tit. 29, p. 3) ; or, as it is denned in the Civil Code of a few years later than the decree of 1880, "that which legally suffices to transfer the ownership or property right, the prescription of which is in question." (Section 1952.) Of course, this does not mean that the *título* must have been effective in the particular case, for then prescription would be unnecessary. We assume for instance that if a private person in possession of Crown lands, seeming to be the owner, executed a formally valid conveyance under which his grantee held, supposing his title good, possession for ten years might create an indisputable right. But if the public facts known by the grantees showed that the conveyance to him was void, we understand that it would not constitute a starting point for the running of time, and that the grantee's actual belief would not help his case. Indeed, in such a case he would not be regarded as holding in good faith, within the requirement of the decree, because a man is not allowed to take advantage of his ignorance of law. The subject is fully expounded in *Hayes vs. United States* (170 U. S., 637, 650, et seq.; 42 L. ed., 1174, 1179; 18 Sup. Ct. Rep., 735).

All that was done to give Lacson a lawful title was insufficient on its face. Therefore, on the facts known to him he was chargeable with knowledge that he had acquired no legal rights, and it was impossible that the period of prescription should begin to run from the date of the instrument under which he claimed. The possession of Carrillo and his successors, after the conveyance to him in 1881, was not maintained for ten years, and therefore the claim of the plaintiff in error must fail.

Judgment affirmed.

[1] 215 U. S., 410; 54 L. ed., 257.

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