

ZACARIAS OMO, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT, RESPONDENT AND APPELLANT.

G.R. No. 3897. August 10, 1908

Ponente: WILLARD, J.

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WILLARD, J.:

This is an appeal from the Court of Land Registration.

By Executive Order No. 34, series of 1903, dated June 5, 1903, the Civil Governor of the Philippine Islands, by virtue of the provisions of Act No. 648, reserved and withdrew from sale, settlement, or private mining claim, for the purpose of governmental coal mining, all the public domain in that part of the Island of Batan west of the shortest straight line drawn from the center of the mouth of the creek which empties into the head of Caracaran Bay, on the south side of the island, to the waters of Gaba Bay on the north side of said island.

The Civil Governor thereafter certified to the judge of the Court of Land Registration that the above tract of public coal land had been reserved. Proceedings were thereupon instituted in the Court of Land Registration to bring said reservation under the operation of the Land Registration Act and become registered land within the meaning of said act.

On the 25th of February, 1904, by virtue of such proceedings, the appellee presented a petition to the Court of Land Registration, asking that he be inscribed, as the owner of a tract of land 35,000 square meters in extent, situated within the limits of the land so reserved. The Solicitor-General appeared in the proceeding in behalf of the Government and opposed the petition on the ground that the property in question belonged to the Government. The appellee thereafter amended his petition, asking that he be given the benefits of Act No. 926. The Solicitor General then presented a second answer, in which he alleged that the land in question was not agricultural land, but was mineral land, and was situated within the civil mining reservation of the Island of Batan and that Act No. 920 was not applicable to such land, and he asked that the petition be denied. On the 25th of January, 1907, the court below entered a final judgment in favor of the petitioner, holding that he was not entitled to the benefits of Act No. 926, but was entitled to the benefits of Act No. 648, in connection with Act No. 627.

The Government moved for a new trial on the ground that the evidence did not justify the judgment, and excepted to the order denying that motion.

The question presented is one of law and involves a consideration of the Act of Congress of July 1, 1902, relating to the Philippines, and Acts Nos. 648 and 926 of the Philippine Commission, above referred to. Coal lands must be considered as mineral lands within the meaning of that phrase as it is used in the Act of Congress. (*The Northern Pacific Ry. Co. vs. Soderberg*, 188 U. S., 526, 529.)

Act No. 926, section 54, paragraph 6, relates only to agricultural lands. Mineral lands are not included in that term as the same is defined by the Act of Congress of July 1, 1902. (*Mapa vs. The Insular (government)*, 10 Phil. Rep., 175.) The petitioner is not, therefore, entitled to the benefits of said section 54, paragraph 6. This was held by the

court below.

But that court held that he was entitled to the benefits of Act No. 648. Section 2 of that Act is as follows:

"Whenever the Civil Governor, in writing, shall certify that all public lands within limits by him described in the Philippine Islands are reserved for civil public uses, either of the Insular Government or of any provincial or municipal government, and shall give notice thereof to the judge of the Court of Land Registration, it shall be the duty of the judge of said court to proceed to issue notice thereof and that claims for all private lands, buildings and interest therein, within said limits must be presented for registration under the Land Registration Act in the manner provided in Act Numbered Six hundred and twenty-seven, entitled 'An Act to bring immediately under the operation of the Land Registration Act all lands lying within the boundaries lawfully set apart for military reservations, and all lands desired to be purchased by the Government of the United States for military purposes.' The procedure for the purpose of this Act and the legal effects thereof shall thereupon be in all respects as provided in sections three, four, five, and six of said Act Numbered Six hundred and twenty-seven."

Section 6 of Act No. 627, referred to in Act No. 648, is as follows:

"The provisions of sections thirty-eight, thirty-nine, forty, forty-one, and forty-two of Act Numbered One hundred and ninety, entitled 'An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands are hereby made applicable to all lands, not more than sixteen hectares in extent, within the limits of any military reservation, notwithstanding such lands would be public lands were it not for titles acquired in the manner stated in said sections thirty-eight, thirty-nine, forty, forty-one, and forty-two.'"

Act No. 627 was approved on February 9, 1903, and Act No. 648 was approved on March 3, 1903. Sections 38 to 42, inclusive, of the Code of Civil Procedure, which are referred to in section 6 of Act No. 627, contain the statute of limitations, and section 41 fixes the period of prescription, relating to real estate, at ten years.

It was proven that the petitioner had been in possession of the land in question for more than ten years. If, therefore, the prescriptive period brought into Act No. 648 from Act No. 627 is or could be made applicable to mineral lands, the judgment of the court below should be affirmed. If, on the contrary, it can not be made applicable because inconsistent with the provisions of the Act of Congress of July 1, 1902, relating to mineral lands, then the judgment must be reversed.

This Act No. 648 and its relation to the Act of Congress of July 1, 1902, we had occasion to consider in the case of *Jones vs. The Insular Government* (6 Phil. Rep., 122). It was there sought to apply the prescriptive period contained in Acts No. 648 and No. 627 to agricultural lands within the limits of the civil reservation at Baguio, in the Province of Benguet. The claim of the Government in that case was that Act No. 648 was invalid because it never had been submitted to Congress, as required by the provisions of section 13 of the Act of Congress of July 1, 1902. It was held that this contention could not be sustained, and that Act No. 648 was not inconsistent with the provisions of the Act of Congress; was not invalid so far as agricultural lands were concerned; and the judgment in favor of the petitioner, founded upon the prescriptive period mentioned in that Act and Act No. 627, was sustained. Speaking of section 13 of the Act of Congress of July 1, 1902, this court said in that case, at page 128:

"It is first to be noted that section 13 does not apply to all lands. Timber and mineral lands are expressly excluded. If the Commission should pass laws relating to mineral lands without submitting them to Congress, as it has done (Act No. 624), their validity would not be determined by inquiring if they had been submitted to Congress under section 13, but rather by inquiring if they were inconsistent with other provisions of the act relating to mineral lands. In other words, the fact that such laws were not submitted to Congress would not necessarily make them void.

"The same is true of legislation relating to coal lands, as to which sections 53 and 57 contain provisions. * * *."

At page 130 the court said:

"It seems very clear that rules and regulations concerning mineral, timber, and coal lands, and lands bought from religious orders need not be submitted to Congress. If they are not inconsistent with the provisions of the Act of Congress relating to the same subjects, they are valid."

The contention of the Attorney-General is that this Act No. 648, in so far as it attempts to make applicable to mineral lands the prescriptive period of ten years, is inconsistent with other provisions of the Act of Congress relating to the same subject, and is therefore invalid.

Section 20 of the Act of Congress is as follows:

"That in all cases public lands in the Philippine Islands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law."

Sections 21 to 52, inclusive, provide in detail the manner in which title may be acquired to certain public mineral lands.

Section 53, as amended by section 9 of the Act of Congress of February 6, 1905, and sections 54, 55, and 61 of the Act of Congress of July 1, 1902, are as follows:

"SEC. 53. That every person above the age of twentyone years who is a citizen of the United States or of the Philippine Islands, or who has acquired the right of a native of said Islands under and by virtue of the treaty of Paris, or any association of persons severally qualified as above, shall, upon application to the proper provincial treasurer, have the right to enter any quality of vacant coal lands of said Islands, not otherwise appropriated or reserved by competent authority, not exceeding sixty-four hectares to such individual person, or one hundred and twenty-eight, hectares to such association upon payment to the provincial treasurer or the collector of internal revenue, as the case may be, of not less than fifty pesos per hectare for such lands, where the same shall be situated more than twenty-five kilometers from any completed railroad or available harbor or navigable stream, and not less than one hundred pesos per hectare for such lands as shall be within twenty-five kilometers of such road, harbor, or stream: Provided, That such entries shall be taken in squares of sixteen or sixty-four hectares, in conformity with the rules and regulations governing the public-land surveys of the said Islands in plotting legal subdivisions.

"SEC. 54. That any person or association of persons, severally qualified as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry under the preceding section of the mines so opened and improved.

"SEC. 55. That all claims under the preceding section must be presented to the proper provincial secretary within sixty days after the date of actual possession and the commencement of improvements on the land by the filing of a declaratory statement therefor; and where the improvements shall have been made prior to the expiration of three months from the date of the passage of this Act, sixty, days from the expiration of such three months shall be allowed for the filing of a declaratory statement; and no sale under the provisions of this Act shall be allmved until the expiration of six months from the date of the passage of this Act.

"SEC. 61. That mining rights on public lands in the Philippine Islands shall, after the passage of this Act, be acquired only in accordance with its provisions."

It is thus seen that Congress has itself provided a way in which title to public mineral lands can be obtained. It has not left that matter to the Commission. The only power given to the Commission in connection with mineral lands is the power to make needful regulations (sec. 57) for carrying into effect the provisions of the Act of Congress.

The petitioner does not claim to have acquired any interest in these lands by virtue of the provisions of section 53,

and the following sections of the Act of Congress, or by virtue of any other provisions of that Act. He does not claim to have acquired any rights to the land, or to the coal therein, by virtue of any mining concessions made by the Spanish Government. He presented ; no evidence to show that the land considered as agricultural land had ever been conveyed to him either by the Spanish Government or the American Government. In fact, the only evidence that he presented was evidence that he had occupied and cultivated the land as agricultural land for the period of more than ten years.

The evidence in the ease clearly shows, therefore, that this, land in question is public land and not private land, and being public land it falls within the provisions of the Act of Congress of July 1, 1902.

While the petitioner does not claim to have acquired title to this public land by virtue of the provisions of the; Act of Congress, he does claim that he has become the owner thereof by virtue of the provisions of Act Ho. 648, in connection with Act No. 627. In other words, he claims that he has acquired title to public mineral land in some other way than that pointed out by the Act of Congress. This claim is directly opposed to the provisions of section 61, above quoted which declares that mining rights in public lands shall not be acquired except as provided in that law. To apply the prescriptive period of ten years mentioned in Act No. 627 would be to allow the petitioner to become the owner of this land by virtue of the Act of the Commission and not by virtue of the Act of Congress. It is to be noted, moreover) that the Act of Congress itself contains a section relating to prescription. Section 45 of that Act is as follows:

"SEC. 45. That where such person or association, they and their grantors have held and worked their claims for a period equal to the time prescribed by the statute of limitations of the Philippine Islands, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this Act, in the absence of any adverse claim; but nothing in this Act shall be deemed to impair any lien which may have, attached in any way whatever prior to the issuance of a patent."

It will be seen that merely occupying public mineral lands for agricultural purposes is not sufficient to bring a case within the provisions of this section 45. The land must have been, held and worked as mineral land before the; person so holding it can claim the benefits of this article. (*Fianza vs. Reavis*, 7 Phil. Rep., 610;)

These two Acts of the Commission, above referred to, were, passed after the Act of Congress. It is probable that it was not the intention of the Commission to make them applicable to public mining lands, but if it were the intention to make them so applicable, and if they must be considered as applying to all public lands, then they are clearly void, so far as they relate to mineral lands, because they are inconsistent with the Act of Congress above mentioned,

We have considered the lands in question, in this case as coal lands. They were so treated by the court below. The Attorney-General states in his brief that it was admitted in that court that they were coal lands and no brief has been filed by the appellee impugning that statement

The judgment of the court below is reversed, and the case is remanded to that court for such further proceedings therein as are contemplated by section 5 of Act No. 627. No costs will be allowed to either party in, this court. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey JJ., concur.

[1] The following causes involving the same subject-matter, were considered and decided at the same time with the same result: No. 3909, *Isidro vs. Insular Government*; No. 3910, *Isidro vs. Insular Government*; No. 3911, *Baile vs. Insular Government*; No. 3912, *Baile vs. Insular Government*; No. 3913, *Salazar vs. Insular*

Government; No. 3914, Salazar vs. Insular Government; No. 3915, Salazar vs. Insular Government; No. 3916, Arcinue vs. Insular Government; No. 3917, Arrinue vs. Insular Government; No. 3918, Arcinue vs. Insular Government et al.; No. 3919, Arcinue vs. Insular Government et al.; No. 3920, Bulanan vs. Insular Government; No. 3921, Bulanan vs. Insular Government; No. 3922, Bulanan vs. Insular Government; No. 3923, Rodriguez vs. Insular Government; No. 3924, Rodriguez vs. Insular Government; No. 3925, Balean vs. Insular Government; No. 3926, Bandol vs. Insular Government; No. 3929, Isidro vs. Insular Government; No. 3930, Abrosoe vs. Insular Government; No. 3931, Caladeila vs. Insular Government; No. 3932, Serrano vs. Insular Government; and No. 4246, Arcinue vs. Insular Government.

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