

**REGOLETA ALTMAN, PETITIONER AND APPELLEE, VS. THE  
COMMANDING OFFICER OF THE PHILIPPINE SQUADRON OF THE  
UNITED STATES NAVY, RESPONDENT AND APPELLANT.***G.R. No. 4691. October 27, 1908*

Ponente: WILLARD, J.

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By an executive order dated November 26, 1902, the President of the United States reserved for naval purposes a large tract of land situated near Olongapo, in the Province of Zambales. On the 22d day of September, 1904, the petitioner and appellee presented to the Court of Land Registration a petition asking that she be inscribed as the owner of a small tract of land, containing four hundred square meters, situated within the town of Olongapo, and within the boundaries of the above-mentioned naval reservation. On the 17th day of December, 1904, the Civil Governor, in compliance with the provisions of Act No. 627, the terms of which were by Act No. 1138 made applicable to naval reservations, notified the judge of the Court of Land Registration of the executive order of November 26, 1902, and requested that the lands included therein be forthwith brought under the operation of the Land Registration Act. Notice was duly given to the occupants of these lands, in accordance with the provisions of section 3 of Act No. 627, and the petition in this case, although filed prior to, the date of that notice, seems to have been considered by the court below and by the parties thereto as a petition presented in compliance with said section 3. It was admitted by the Government at the trial that Severino Salinas had occupied the tract of land here in question from 1885 continuously to June 25, 1903, when the petitioner and appellee succeeded to his rights therein, and that she has since the date last mentioned been in actual possession of the said land.

By section 6 of Act No. 627 the provisions of section 41 of Act No. 190 are made applicable to lands within military and naval reservations not exceeding sixteen hectares in extent. Said section 41 provides that ten years actual adverse possession by any person claiming to be the owner for that time of a piece of land shall vest in him the full and complete title thereto. Salinas had been in the actual possession of this land for more than ten years prior to the executive order of November 26, 1902, but that possession did not make him the owner thereof unless during that time he occupied it as the owner. (*Compañia Agricola de Ultramar vs. Domingo*, 6 Phil. Rep., 246, 248; *Ayala de Roxas vs. Maglonso*, 8 Phil. Rep., 745; *Ayala de Roxas vs. Valencia*, 9 Phil. Rep., 332.) And the only question in the case which we need to consider is whether Salinas occupied the land as owner for ten years.

In order to determine whether Salinas occupied the land as owner, or as a mere tenant at sufferance, it is necessary to consider the evidence offered by the Government relating to a naval reservation claimed by it to have been established by the Spanish Government in the same place. That Government in 1884 commenced proceedings to establish an arsenal at this point. On the 18th of August, 1885, the construction of new houses and the cultivation of land within a radius of one league from Olongapo was prohibited. On the 22d of September, 1885, the Governor-General of these Islands, by direction of the central government at Madrid, ordered the land which had been previously indicated as the reservation to be surveyed and its boundaries marked by monuments and further ordered that proceedings be commenced for the condemnation of any private property which might be included

within the reservation. On the 20th day of December, 1885, the land was surveyed, the boundaries were marked, and it was delivered to the naval authorities. Condemnation proceedings against the then occupants of the land were carried on, several persons, among others Juan de la Concha, presenting claims for indemnity. The land in controversy is situated within the boundaries of the naval reservation then surveyed and established.

Salinas was an enlisted man in the Spanish navy, and he came to Olongapo as such. Upon his arrival there, he was located within the walls of the arsenal, but afterwards the naval authorities cleared a part of the land included in the reservation, and Salinas with his family was located upon the tract of land now in question by the officer of the navy then in command at that point: Salinas continued as an enlisted man in the navy until after the battle of Manila, in 1898, and during that time lived with his family upon that lot.

It will be seen that this case does not involve the rights of persons who were living upon land at the time it was reserved for naval, military or civil purposes. Two cases of that kind have, however, been before this court. (*Jones vs. The Insular Government*, 6 Phil. Rep., 122; *Buenaventura vs. The Commanding General, Division of the Philippines*, 6 Phil. Rep., 600.) This is a case where land having been set apart by the Spanish Government as a naval reservation, and having been turned over to the control of the naval authorities, they placed one of their enlisted men in possession of the property. Under these circumstances, we see no ground for the claim that Salinas occupied this land as owner. It is very apparent that he was there merely by sufferance of the naval authorities, and that they had a right to remove him from the property at any time they saw fit—to remove him from this property in the same way that they removed him from the arsenal where he was first established. That the naval authorities never intended to give him any right to the land, is, of course, perfectly clear. It can not for a moment be supposed that, while they were carrying on condemnation proceedings against persons living within the bounds of the reservation, who claimed some interest to lands occupied by them, for the purpose of acquiring through such proceedings this interest, they would be giving to Salinas and other enlisted men proprietary rights in the same lands. Their purpose was to become the absolute owners of all the property within the bounds of the reservation. That purpose is indicated by the condemnation proceedings. They did not at the same time intend, while extinguishing rights of third persons in certain property of the reservation, to create similar rights in other persons to other property within the same.

The court below in its decision stated that the proof presented by the Government failed completely to establish that any action was ever taken by the Spanish Government sufficient in law to sever this land from the public domain and close it to settlement. No reason is given by the court for this opinion, nor does it point out in what respect the evidence of the Government failed to establish the creation of a legal reservation; but the question of whether there was or was not a legal reservation during the Spanish domination, is of no consequence in the decision of this case. Upon this point the Attorney General well says:

"For a proper determination of this case it is not necessary to pass upon the validity of the Spanish naval reservation. The land at Olongapo was taken possession of by the Spanish naval authorities under orders of the Governor-General, and the occupants divested of their lands. Large sums of money were expended in buildings, shops, walls, arsenals, wharves, canals, roads, fortifications, brickyards, tramways, and quarries. Enlisted men of the navy and civilian employees were brought to Olongapo by the naval authorities and quartered upon the land.

"A naval arsenal and station was created and actual possession taken and maintained. No one, adverse to their claim, was allowed upon the land, and former claimants dispossessed. A de facto reservation was established and maintained until after the battle of Manila in 1898. The legality of such reservation might have been brought in question between the prior occupants and the naval authorities, in representation of the Government, but the question of legality of the Government's title can not be questioned by those who enter into possession thereof by permission of the same."

That the naval authorities never intended to give Salinas any right to the land is clear; it is also clear that Salinas never supposed that he had acquired any right thereto. He testified that he did not clear the land or make it suitable for building purposes; that this was done by the naval authorities; that the naval commander marked out the lines of his lot and located him thereon. The most satisfactory proof that he never supposed that he was the owner of the land is found in the conveyance to the petitioner, in which he says:

"That I sell, cede and transfer to Doña R. Haltman the house situated in No. 2, Calle Draper, of this pueblo of Olongapo, together with the goods and plants therein, for the sum of seventy-four pesos, Mexican."

No mention is made in this conveyance of the land. It is true that at the trial of this case in 1907 Salinas undertook to testify that he intended to convey the land, and during the trial he executed a deed to the petitioner conveying to her the land as well as the house. Neither his testimony nor this deed is entitled to any weight in determining the character of his possession from 1885 to 1903.

The judgment of the court below is reversed and the case remanded for further proceedings therein, in accordance with 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.

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