

LUCIO BUZON Y JAVIER, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT AND THE CITY OF MANILA, OPPONENTS AND APPELLANTS.

G.R. No. 4783. March 27, 1909

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4783/>

JOHNSON, J.:

On the 7th day of November, 1906, the plaintiff presented a petition in the Court of Land Registration for the purpose of having the following-described real estate registered;

"(1) A parcel of land situated in_____, within the reservation of_____, bounded on the north by Calle Pavia; on the south by the land of Doña Isidora Cristobal; on the east by Calle Velazquez; and on the west by Manila Bay, 2,619.18 square meters in extent."

The Central Government and the city of Manila each opposed the registration of the property in question.

After hearing the evidence adduced during the trial of the cause, the lower court rendered the following decision:

"Lucio Buzon y Javier claims the adjudication and registration of a building tot composed of a parcel of land 2,619.18 square meters in extent, and situated in Calle Velazquez, district of Tondo, city of Manila.

"It is alleged in the fourth paragraph of the application, that part of the land described was acquired by the petitioner through inheritance from his parents, Leon Buzon and Cirila Javier, and the remainder by purchase from the heirs of the late Atanasio Buzon, whose names are not given.

"The Insular Government and the city of Manila oppose the registration asked for, the first party alleging that in ordinary tides the land toward the west side is covered by the waters of the sea to the extent of 1,549 square meters, and as such belongs to the public domain under the control of the Insular Government; the second party alleges that the lineal measurements of the land toward Calle Velazquez are erroneous, because instead of a zigzag composed of two straight lines it should be one of three straight lines, as shown in the document submitted by the opposition, L. D. 20504, averring that by the acceptance of the lines contained in the plan, there is included an extension of 15 square meters of Calle Velazquez, which belongs to the public domain. The city of Manila also joins in the opposition of the Insular Government.

"The petitioner contends that his plan is correct, and that the parcels claimed by both parties opponent are integral parts of his land comprised within the plan.

"Under a public instrument executed on December 20, 1872, before Francisco R. Avellana, then a notary public of this city, a copy of which, Exhibit B, issued by M. de Iriarte, chief of the division of archives, on September 17, last year, is attached to the record, Fray Antonio Fermentino, the then procurador general of the Augustinian fathers of this city, sold two adjoining lots to the brothers Atanasio and Moises Buzon, both parcels being located in the barrio of Caleros, within the jurisdiction of the district of Tondo, the metes and bounds of which parcels are shown in said document.

"At the death of one of the purchasers, Atanasio Buzon, his two surviving daughters, Serapia Buzon by the first marriage, and Apolonia Buzon of the second marriage, together with his only three granddaughters, Severina, Maria, and Victoria Buzon, issue of his deceased son Diego Buzon, succeeded him in all his rights and actions as his only heirs. These five heirs of Atanasio Buzon sold to the petitioner their interest in the land as the only heirs of Atanasio Buzon, as appears by parol evidence shown in Exhibit E, the two last named, Maria and Victoria Buzon, being represented by their mother Brigida de la Cruz, on account of being minors. The necessity and advisability of the sale of the interest of the two minors, Maria and Victoria Buzon, was duly shown.

"At the death of the other purchaser, Moises Buzon, his widow Anselma Feliz, by whom he had but one son, also named Moises Buzon, sold the part of the property corresponding to the first named to Leon Buzon, as appears in a public instrument executed on January 27, 1879, before Alejandro Casal, then one of the notaries public of this city, a copy of which was issued on November 12 of last year by M. Iriarte, chief of the division of archives, and is attached to the record L. D. 17953. Moises Buzon, who, as appears from the oral evidence is the only heir of his father, Moises Buzon, being of legal age, agreed to the sale made by his mother, Anselma Felix.

"On the death of Leon Buzon, his only son, Lucio Buzon, succeeded him and brought a possessory action before one of the Courts of First Instance of this city, and inscribed the possession shown in the former registry of property of that portion of land adjudged to Moises Buzon.

"From the foregoing facts, fully proven by documentary and oral evidence, it is to be inferred that the two contiguous parcels acquired from the Augustinian fathers were joined together and divided between the brothers Atanasio and Moises Buzon, and, after their death, and after successive and legal transfers, the two portions in which it was divided came into the possession of the applicant, Lucio Buzon, who joined them in one parcel, which is described in the application as follows: Bounded on the east or in front by Calle Velazquez; on the west or on the back by Manila Bay; on the north or the right side on entering, by Calle Pavia; and on the south or the left side on entering, by the land of Isidora Cristobal. The front toward Calle Velazquez is a broken or zigzag line composed of two straight lines, one of them 41.50 meters, and the other 52.80 meters in length, that is, a total of 93.80 meters; the rear measures 95.20 meters, and the right and left sides 23.77 meters, respectively.

"The description contained in the public document of December 20, 1872, executed by the procurador of the Augustinian fathers in favor of Atanasio and Moises Buzon, attributes a greater extension than that assigned to each one of the sides forming the said plan. The east side of the two adjoining lots measures 165 varas, which is equivalent to 137.90 meters; the west side toward Manila Bay measures 149 varas, equivalent to 124.60 meters; the south and north sides are 32 varas in length, equivalent to 26.75 meters, and 31 varas, or 25.91 meters, respectively.

"As is seen at a glance, the present measurements of the property have suffered a reduction. It can not be averred that the plan embraces a larger portion of land than that described in the instrument of December 20, 1872.

"If we heed the parol evidence, we find that the seashore was formerly about one hundred brazas distant from the land in question; that, in the course of time, and by the removal of a considerable quantity of sand from the shore at the back of the land for the use of the street car company in filling in Calle Cervantes, the sea water in ordinary tides now covers part of the land described in the petition.

"The fact that certain land, not the bed of a river or of the sea, is covered by sea water during the period of ordinary high tide, is not a reason established by any law to cause the loss thereof, especially when, as in the present case, it becomes covered by water owing to circumstances entirely independent of the will of the owner.

"It is notorious and of public knowledge that in Tondo, where the property in question is located, the sea waters as years elapse, are gradually encroaching on the lands of private ownership adjoining the bay to such an extent that many of the owners of the lands therein situated have lost a considerable portion of them on account of their becoming covered by the sea waters even during low tides.

"The land in question is that which was acquired from the Augustinian fathers on December 20, 1872. Its superficial extension not only has not increased, but on the contrary, has been actually reduced, as appears from the comparison made of the survey evidenced by the deed, Exhibit B, and that which appears on the plan.

"There is no legal reason, or any other ground, to justify the pretension of the Insular Government and of the city of Manila to consider that portion of land which becomes covered by water on the days and hours of usual tide, as public domain, it being, as it actually is, susceptible of being used for building purposes.

"Owing to the topographical situation of the city of Manila, some lands are higher than others, according to the districts wherein they are located. They can be recognized at a glance. Even within a single district, the same thing happens, according to the location of the lands and the resources of their owners. Hence the constant and almost daily labor of certain employees of the city in the filling of many streets, in order to raise the level thereof and render them inaccessible during high tide to the sea water surrounding the city. However, there are still many streets which become, if not totally, at least partially inundated during the night tides of this month, and during the day tides of May, June, and July, for example. As eloquent proof of the above statements, certain streets of the districts of Trozo, Tondo, and Sampaloc, within the knowledge of the writer, can be cited. If this happens in the streets which are constantly being repaired and attended to by the city with the large resources at its command, it is needless to say what would happen to the low lands, many of which are below the street level, and whose owners are without the means to raise them.

"The owners of lands situated in Tondo and adjoining Manila Bay are unfortunate enough by having to suffer the disastrous effects of the action of the sea, caused by the southeast monsoons, and by being exposed to the total loss of their lands on account of the phenomenon observed along the Tondo shore, where the sea, instead of depositing land formed by the action of the water, as happens in other places, gradually wears away that already existing and which adjoins the bay.

"If the theory of the Insular Government and the city of Manila were to be accepted, unsupported as it is by any law, it would be an additional misfortune for property owners, who would become deprived of their lands.

"The circumstance of the land in question belonging to a private person who aims to conserve it at his own expense, and takes the risk of its total disappearance, far from being a prejudice, is an advantage so far as the improvement of the city is concerned, and benefits the opposing entities themselves, inasmuch as the owner, if he persists in his desire to conserve the land, will employ the necessary means to prevent the flooding thereof and will raise the level and build retaining walls along the side facing Manila Bay, as has been done in various places in the districts of Ermita and Malate.

"In other countries, as America, Japan, and the neighboring colony of Hongkong, the policy of the various governments is to reclaim lands from the inexhaustible store of the sea, either by their own initiative, or by that of private persons owning or not owning lands adjacent to the sea, for the purpose of extending their territory and to meet the requirements of a population daily increasing in numbers. But a radically different policy is adopted in the oppositions filed by the Insular Government and the city of Manila, a policy which tends to infringe on the sacred rights of private ownership, and in nothing benefits the interests of the Government itself or of the inhabitants of the country.

"The city of Manila has presented no proof to show the equity of its claim. Its opposition, as well as that of the Insular Government, lacks foundation, and is overruled.

"It having been duly proven by the evidence that the petitioner has acquired the ownership of the property

described in the petition by virtue of the possession he enjoys, computing his possession, with that of his predecessors, from December 22, 1872, the date of the document Exhibit B (an extraordinary prescription of 30 years), it is hereby decreed that, after general declaration of default, the property be adjudged to and registered in the name of Lucio Buzon y Javier.

"After this decision becomes final, let the decree be issued, and let the register of deeds of the city of Manila cancel the entry of registration of possession standing in the name of Lucio Buzon y Javier, in regard to a portion of the land described in the petition, at folio 174, volume 17, of Tondo section and 65 of the archive, lot No. 1256, first inscription."

To this decision the city of Manila duly excepted and presented a motion for a new trial, and duly excepted to the denial of said motion for a new trial. The city of Manila brought to this court its bill of exceptions, but has made no assignments of error here. Therefore in the appeal of the city of Manila no question is presented here for decision.

The judgment of the lower court is, therefore, affirmed as to the city of Manila.

The Insular Government made no exception to the judgment of the lower court and has presented no bill of exceptions here. Therefore there is no question here to be considered with reference to the rights of the Insular Government in the premises.

This court has frequently decided that each appellant must present a bill of exceptions.

For the reason therefore that the appellants have presented no questions here to be decided by this court, the judgment of the lower court is hereby affirmed, with costs.

Arellano, C. J., Torres, Mapa, Carson, and Willard, 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.