

MARIA JOSE Y NARVAEZ ET AL., PETITIONERS AND APPELLANTS, VS. THE COMMANDER OF THE PHILIPPINE SQUADRON OF THE UNITED STATES NAVY, OPPONENT AND APPELLEE.

G.R. No. 5464. March 22, 1910

Ponente: CARSON, J.

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CARSON, J.:

To our minds, the able and exhaustive opinion filed by the judge of the Court of Land Registration, wherein this case originated, completely and satisfactorily disposes of all of appellants' assignments of error, and renders unnecessary any further discussion of the questions involved on this appeal.

That decision is as follows:

"The application in this case for the registration of between 19 and 20 hectares of land in the United States Naval Reservation at Olongapo is opposed by the Commander of the Philippine Squadron of the United States Navy on behalf of the United States. The question presented for decision is stated by the parties, respectively, in their briefs, as follows:

"Applicants' brief. - 'The application and opposition present to the court for its decision one single question. The undisputed and indisputable evidence demonstrates that the petitioners are the owners of the lands in question and as such are entitled to a decree of registration unless those lands have become forfeited by reason of the omission of the petitioners to present this application within the period of time prescribed by Act No. 627, United States Philippine Commission. The present application was filed after the expiration of the six months prescribed by said Act No. 627 and after the expiration of the further period to which the statutory term was extended by order of this honorable court * * * The facts therefore fairly and squarely present the question whether the terms of Act No. 627 violate the prohibition against the taking of property without due process of law.' (Pp. 131 and 132 of case.)

"Opponent's brief. - 'On the trial of the case the petitioners presented to the court a grant by the Government of Spain to the ancestor of the petitioners. On the part of the defense it was proven that on December 17, 1904, the then Civil Governor, in accordance with the provisions of Act No. 627 as amended by Act No. 1138, notified the judge of the Court of Land Registration that the Commander in Chief of the United States Asiatic Fleet had certified to the said Civil Governor that the lands within the limits of which the tract in question is situated had been reserved by the President of the United States for naval purposes and requesting that he forthwith bring under the operation of the Land Registration Law the said land. Upon receipt of such notification the Land Court ordered that publication be made of the notices required by law, and notice was accordingly issued under the seal of the Land Court directed to the owners and occupants of the lands therein described and to all persons having and claiming to have an interest therein, requiring them within, six calendar months from the date of such notice to present application to the said court to have said lands or interest therein registered under the provisions of the Land Registration Act, and notifying all such persons that unless such application was presented within the time prescribed that the said lands or interest therein would be conclusively adjudged to be public lands and all claims on the part of private individuals not so presented

forever barred. Such notice was dated July 8, 1905, and publication of the same was duly made as required by law. Prior to the expiration of the six months' period fixed in said notice and on the 27th day of December, 1905, the time for the presentation of claims was by the order of the judge of said court extended three months. Said three months' extension expired on the 17th day of April, 1906. The petition in this case was not filed with the clerk of the Court of Land Registration until long after the 17th day of April, 1906, and long after the expiration of the period fixed by law as extended by the court. This case raises the square issue of the legality or constitutionality of section 4 of Act No. 627. The petitioners claim that section 4 of Act No. 627 confiscates the property of the petitioners without the process of law, and consequently is null and void.' (Pp. 146 to 148 of case.)

"In *Twining vs. New Jersey* (29 Supreme Court Reporter, 14, 20), Mr. Justice Moody says of 'due process of law:'

"'Few phrases of the law are so elusive of exact apprehension as this. Doubtless the difficulties of ascertaining its connotation have been increased in American jurisprudence, where it has been embodied in constitution and put to new uses as a limit on legislative power. This court has always declined to give a comprehensive definition of it, and has preferred that its full meaning should be gradually ascertained by the process of inclusion and exclusion in the course of the decisions of cases as they arise. There are certain general principles, well settled, however, which narrow the field of discussion, and may serve as helps to correct conclusions. These principles grow out of the proposition universally accepted by American courts on the authority of Coke, that the words "due process of law" are equivalent in meaning to the words "law of the land," contained in that chapter of Magna Charta which provides that "no freeman shall be taken, or imprisoned, or disseised, or outlawed, or exiled, or any wise destroyed; nor shall we go upon him, nor send upon him, but by the lawful judgment of his peers or by the law of the land." (Den ex dem. *Murray vs. Hoboken Land & Improv. Co.*, 18 How. 272, 15 L. ed., 372; *Davidson vs. New Orleans*, 96 U. S., 97, 24 L. ed., 616; *Jones vs. Robbins*, 8 Gray, 329; *Cooley, Const. Lim.* 7th ed., 500; *McGhee, Due Process of Law*, 16.)'

"In *United States vs. Ling Su Fan* (10 Phil. Rep., 104, 111-112) the following is given as the meaning of the phrase 'due process of law:'

" ' "Due process of law" is process of proceedings according to the law of the land. "Due process of law" is not that the law shall be according to the wishes of all the inhabitants of the state, but simply:

" 'First. That there shall be a law prescribed in harmony with the general powers of the legislative department of the Government;

" 'Second. That this law shall be reasonable in its operation ;

" 'Third. That it shall be enforced according to the regular methods of procedure prescribed; and

" 'Fourth. That it shall be applicable alike to all the citizens of the state or to all of a class.'

"It is not pretended in the present case that Act No. 627, extended to naval reservations by Act No. 1138, has not been enforced in the Olongapo Reservation according to the regular methods of procedure prescribed by that Act, nor that the provisions of the Act are not applicable alike to all persons owning or claiming lands within the reservation. In fact the regular methods of procedure prescribed by Act No. 627 have been complied with, and that Act is expressly applicable to all such persons. The third and fourth requirements of the last above-quoted definition of 'due process of law' have, therefore, undoubtedly been complied with, and it only remains to be determined whether or not the law in question fulfills the first and second requirements of said definition. The undersigned is of the opinion that it does in view of the decisions of the Supreme Courts of the United States and the Philippine Islands hereinafter cited.

"First. Act No. 627 of the Philippine Commission is in harmony with the general powers of the legislative

department of the Government.

"Alfonso vs. Commanding General, 6 Phil. Rep., 600, 609. - 'The powers of the (Insular) Government and of the Commission embrace all the public lands in the Philippine Islands, so that by means of laws and orders there may be carried out the intention of Congress that from the public lands which are to constitute reservations, military or otherwise, as well as from the rest which are to be at the free disposition and administration of the Insular Government, there may be segregated those parts of the public lands to which there is proven either a right of possession or an application for title prior to the change of sovereignty.'

"Botiller vs. Dominguez, 130 U. S., 238, 250. - An Act of Congress of March 3, 1851, provided that each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican Government should present his claim to a commission created by said Act, and that 'all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this Act, shall be determined, held, and considered as part of the public domain of the United States.' The Act also provided for appeals by the claimant and by the Government from the decisions of the commission, first to the district court and thence to the Supreme Court. Held, that no title to land in California dependent upon Spanish or Mexican grants can be of any validity, which was not submitted to, and confirmed by, the commission provided for that purpose under the Act of March 3, 1851; or, if rejected by that commission, confirmed by the district court or by the Supreme Court of the United States. In its opinion in this case the court says:

" 'Nor can it be said that there is anything unjust or oppressive in requiring the owner of a valid claim, in that vast wilderness of lands unclaimed, and unjustly claimed, to present his demand to a tribunal possessing all the elements of judicial functions, with a guaranty of judicial proceedings, so that his title could be established if it was found to be valid, or rejected if it was invalid.

" 'We are unable to see any injustice, any want of constitutional power, or any violation of the treaty, in the means by which the United States undertook to separate the lands in which it held the proprietary interest from those which belonged, either equitably or by a strict legal title, to private persons. Every person owning land or other property is at all times liable to be called into a court of justice to contest his title to it. This may be done by another individual, or by the government under which he lives. It is a necessary part of a free government, in which all are equally subject to the laws, that whoever asserts rights or exercises powers over property may be called before the proper tribunals to sustain them.

" 'No doubt could exist, and none whatever would have been suggested, if this statute, instead of requiring the individual claimants to take notice that they were called upon to establish their title and come forward and do so, had provided that the United States should sue everybody who was found in possession of any land in California at the time the treaty was made, and thus compel him to produce his title, if he had any. Such suits would have been sustained without hesitation, as being legal, constitutional and according to right. What difference can it make, then, that the party who is supposed to possess all the evidences which exist to support his claim is called upon to come before a similar tribunal and establish it by a judicial proceeding? It is beyond question that the latter mode is the more appropriate one to carry out the object intended, and better calculated to save time and expense, both to the Government and to the party, and to arrive at safe and satisfactory conclusions.'

"Ainsa vs. New Mexico and Arizona Railroad, 175 V. S., 76, 84. - 'This court held (in Botiller vs. Dominguez) that this provision (of the Act of March 3, 1851) included perfect as well as inchoate titles, and that consequently no suit could be maintained in a court of the State of California on any Spanish title whatsoever, if it had not been presented to the commissioners in accordance with the Act of Congress.'

"Thompson vs. Los Angeles, 180 U. S., 72, 77. - In this case the Supreme Court says, speaking of the Act of March 3, 1851: 'Every question which could arise on the title claimed could come to and receive judgment from this court. The scheme of adjudication was made complete and all the purposes of an Act to give repose to titles were accomplished. And it was certainly the purpose of the Act of 1851 to give repose to titles. It was

enacted not only to fulfill our treaty obligations to individuals, but to settle and define what portion of the acquired territory was public domain. It not only permitted but required all claims to be presented to the board, and barred all from future assertion which were not presented within two years after the date of the Act. (Sec. 13.) The jurisdiction of the board was necessarily commensurate with the purpose of its creation, and it was a jurisdiction to decide rightly or wrongly. If wrongly a corrective was afforded, as we have said, by an appeal by the claimant or by the United States to the district court.'

"Barker vs. Harvey, 181 U. S., 481, 487-490. - In this case the Act of March 3, 1851, is again considered and the above-cited cases of Botiller vs. Dominguez and Thompson vs. Los Angeles are quoted at length and followed, the court holding that the United States had the right to require reasonable means for determining the validity of all titles within the territory ceded to it by Mexico, to require all persons having claims to lands to present them for recognition, and to decree that all claims which were not thus presented should be considered abandoned.

"See also Jackson vs. Lamphire (28 U. S., 280) and the provisions of law therein cited and sustained relating to the settlement of claims under patents for lands granted by the State of New York.

"Second. Act No. 627 of the Philippine Commission is reasonable in its operation.

"Terry vs. Anderson, 95 U. S., 628, 632-684. - 'This court has often decided that statutes of limitation affecting existing rights are not unconstitutional, if a reasonable time is given for the commencement of an action before the bar takes effect. (Hawkins vs. Barney, 5 Pet., 451; Jackson vs. Lamphire, 3 id., 280; Sohn vs. Waterson, 17 Wall., 596; Christmas vs. Russell, 5 id., 290; Sturges vs. Crowninshield, 4 Wheat., 122.) It is difficult to see why, if the legislature may prescribe a limitation where none existed before, it may not change one which has already been established. The parties to a contract have no more a vested interest in a particular limitation which has been fixed, than they have in an unrestricted right to sue. They have no more a vested interest in the time for the commencement of an action than they have in the form of the action to be commenced; and as to the forms of action or modes of remedy, it is well settled that the legislature may change them at its discretion, provided adequate means of enforcing the right remain. *

" 'In all such cases, the question is one of reasonableness, and we have, therefore, only to consider whether the time allowed in the statute is, under all the circumstances, reasonable. Of that the legislature is primarily the judge; and we can not overrule the decision of that department of the government, unless a palpable error has been committed. In judging of that, we must place ourselves in the position of the legislators, and must measure the time of limitation in the midst of the circumstances which surrounded them, as nearly as possible; for what is reasonable in a particular case depends upon its particular facts.

" 'Here, nine months and seventeen days were given to sue upon a cause of action which had already been running nearly four years or more. * * * The circumstances under which the statute was passed seem to justify the action of the legislature. The time, though short, was sufficient to enable creditors to elect whether to enforce their claims or abandon them.'

"Koshkonong vs. Burton, 104 U. S., 668, 675. - In this case the above decision in Terry vs. Anderson is cited, and the principle therein laid down reiterated.

"Huling vs. Kaw Valley Railway, 180 U. S., 559, 568, 564. - Held, That in proceedings commenced under a State statute for condemnation of land for a railroad, a published notice in compliance with the terms of the statute, specifying the section, township and range, county and State, in which it is proposed to locate the railroad, is sufficient notice to a nonresident owner of land therein, and such publication is 'due process of law,' as applied to such a case. In the opinion of the court Mr. Justice Miller says: 'Of course, the statute goes upon the presumption that, since all the parties can not be served personally with such notice, the publication, which is designed to meet the eyes of everybody, is to stand for such notice. The publication itself is sufficient if it had been in the form of a personal service upon the party himself within the county. Nor have we any doubt

that this form of warning owners of property to appear and defend their interest, where it is subject to demands for public use when authorized by statute, is sufficient to subject the property to the action of the tribunals appointed by proper authority to determine those matters.

"The owner of real estate, who is a nonresident of the State within which the property lies, can not evade the duties and obligations which the law imposes upon him in regard to such property, by his absence from the State. Because he can not be reached by some process of the courts of the State, which, of course, have no efficacy beyond their own borders, he can not therefore hold his property exempt from the liabilities, duties, and obligations which the State has a right to impose upon such property; and in such cases some substituted form of notice has always been held to be a sufficient warning to the owner, of the proceedings which are being taken under the authority of the State to subject his property to those demands and obligations. Otherwise the burdens of taxation, and the liability of such property to be taken under the power of eminent domain, would be useless in regard to a very large amount of property in every State of the Union.

"It is, therefore, the duty of the owner of real estate, who is a nonresident, to take measures that in some way he shall be represented when his property is called into requisition; and if he fails to do this, and fails to get notice by the ordinary publications which have usually been required in such cases, it is his misfortune, and he must abide the consequences. Such publication is "due process of law" as applied to this class of cases. (Harvey vs. Tyler, 2 Wall., 328; Secombe vs. Railroad Co., 23 Wall., 108; Pennoyer vs. Neff, 95 U. S., 714, 722, 743, 744; Hagar vs. Reclamation District, 111 U. S., 701; McMillen vs. Anderson, 95 U. S., 37; Davidson vs. New Orleans, 96 U. S., 97, 105; Boom Co. vs. Patterson, 98 U. S., 403, 406.)"

"Wheeler vs. Jackson, 137 U. S., 245, 255. - The fifteenth section of the Act of the legislature of New York, approved June 6, 1885, provides that no action or special proceedings shall thereafter be maintained against the city of Brooklyn, or the registrar of arrears of that city, to compel the execution or delivery of a lease upon any sale for taxes, assessments, or water rates, made more than eight years prior to the above date, unless commenced within six months after that date, and notice thereof filed in the office of the registrar of arrears; also, that officer shall, upon the expiration of such six months, cancel in his office all sales made more than eight years before the passage of the Act, upon which no lease had been given, and no action commenced and notice thereof filed, within the period limited as aforesaid, and that thereupon the lien of all such certificates of purchase should cease and determine. Held, That this section is not repugnant to the clause of the Constitution of the United States forbidding a State to pass any law impairing the obligation of contracts, or to the clause declaring that no State shall deprive any person of property without due process of law; citing Terry vs. Anderson (supra); Koshkonong vs. Burton (supra); Mitchell vs. Clark (110 U. S., 633, 643) ; and McMahey vs. Virginia (In re Brown) (135 U. S., 662, 701, 705-707).

"Ballard vs. Hunter, 204 U. S., 241, 262. - A State may make reasonable discriminations in regard to service of process for enforcement of liens for taxes and assessments on real estate between resident and nonresident owners, providing for personal service on the former and constructive service by publication on the latter. Land stands accountable to the demands of the State, and owners are charged with knowledge of laws affecting it, and the manner in which those demands may be enforced. The court says in its opinion: 'A law must be framed and judged of in consideration of the practical affairs of man. The law can not give personal notice of its provisions or proceedings to everyone. It charges everyone with knowledge of its provisions; of its proceeding it must, at times, adopt some form of indirect notice, and indirect notice is usually efficient notice when the proceedings affect real estate. Of what concerns or may concern their real estate men usually keep informed and on that probability the law may frame its proceedings; indeed, must frame them, and assume the care of property to be universal, if it would give efficiency to many of its exercises. This was pointed out in Huling vs. Kaw Valley Railway and Improvement Company (130 U. S., 559), where it was declared to be the "duty of the owner of real estate, who is a nonresident, to take measures that in some way he shall be represented when his property is called into requisition; and if he fails to get notice by the ordinary publications which have been usually required in such cases, it is his misfortune, and he must abide the consequences." It makes no

difference, therefore, that plaintiffs in error did not have personal notice of the suit to collect the taxes on their lands or that taxes had been levied, or knowledge of the law under which the taxes Had been levied.'

"While the decisions above cited as bearing upon the reasonableness of Act No. 627 in its operation do not relate to statutes identical in their object with said Act, the statutes which they do discuss, relating to shortening periods of limitation, expropriating lands for public purposes, and enforcing liens for taxes, may be said to be analogous in their nature to Act No. 627, and are obviously similar in their effect, providing, as they do, for the loss of title to real estate upon the owner's failure to take the steps required of him by such statutes. In the light of those decisions it can not be successfully maintained that Act No. 627 is unreasonable in its operations unreasonable in the manner in which the notices are to be given to interested parties and in the time given such parties within which to act. The notice is required to appear in newspapers published in both Spanish and English, to be posted conspicuously at each angle of the land reserved, and to be served on each person living upon or in visible possession of any part of said land (Act No. 627, sec. 3), and claims may be presented to the Court of Land Registration within six months from the date of the notice, which period may be extended to nine months (Act No. 627, sec. 4). As stated in the briefs of the respective parties, said extension to nine months was actually made with respect to the Olongapo reservation. It is not clear in the present case whether the applicants or their authorized agent received actual notice in time to present their claim within the period of nine months or not (see pp. 110 to 118 and 125 to 129 of the case), but their contention is that the lands they claim have been unoccupied for many years, and that they did not receive actual notice until after said period had expired. In other words, they explain the nonreceipt of actual notice, and seek to excuse themselves for not having presented their claim sooner, by affirming that they had in effect abandoned the land, except for the payment of taxes, for a long period of time. It is evident from reservation file No. 1, relating to the Olongapo reservation, which file is before the court in this case (see p. 124 of the case), that if the applicants had maintained a representative on the land they would have received actual notice of the reservation early in August, 1905, at the latest, as did their witness and cousin, Damaso Esteban, and 195 others (see pp. 18 to 24 of said reservation file No. 1). As indicated in the above decisions, owners of property can not evade the duties and obligations which the law imposes upon them in regard thereto by absenting themselves, and withdrawing their agents from the jurisdiction in which the property is located.

"In addition to the decisions of the United States Supreme Court previously cited bearing upon the reasonableness of the length of time given by Act No. 627 to present claims, there are numerous similar decisions by the Federal courts and the courts of the different States. For instance, the following periods have been held reasonable for the enforcement of existing causes of action before the bar of a new statute of limitations should become complete:

"One year. (McMillian vs. Werner, 35 Tex., 419; Cameron vs. Louisville, O. & T. R. Co., 69 Miss., 78, 10 So., 554; Adamson vs. Davis, 47 Mo., 268; Krone vs. Krone, 37 Mich., 308; People ex rel. Parsons vs. Circuit Judge, 37 Mich., 287; Burwell vs. Tullis, 12 Minn., 572, Gil., 486; Duncan vs. Cobb., 32 Minn., 460, 21 N. W., 714; Lockart vs. Yeiser., 2 Bush, 231; Vandiver vs. Hodge, 4 Bush, 538; Stern vs. Bates, 9 N. M., 286, 50 Pac, 325; Call vs. Haggex, 8 Mass., 423; Wooster vs. Bateman, 126 Iowa, 552, 102 N. W., 521; Hill vs. Gregory, 64 Ark., 317, 42 S. W., 408; Michel vs. Tenney, 6 La. Ann., 89; Wrightman vs. Boone County, 82 Fed., 413.)

"Eighteen months. (Hodger vs. Rennaker, 3 Met. (Ky.), 255.)

"Thirteen months. (Merchants' Nat. Bank vs. Braithwaite, 7 N. D., 358, 66 Am. St. Rep., 653, 75 N. W., 244; State use off Isaac vs. Jones, 21 Md., 432.)

"Ten months. (Osborne vs. Lindstrom, 9 N. D., 1, 46 L. R. A., 715, 81 Am. St. Rep., 516, 81 N. W., 72.)

"Nine months. (Eaton vs. Manitowoc County, 40 Wis. 668.)

"Eight months. (Duncan vs. Cobb, 32 Miss., 460, 21 N. W., 714.)

"Seven months. (Power vs. Kitching, 10 N. D., 254, 88 Am. St. Rep., 691, 86 Pac, 737.)

"Six months. (Tipton vs. Smythe; People vs. Turner, 117 N. Y., 227, 15 Am. St. Rep., 498, 32 N. E., 1022, 145 N. Y., 451, 40 N. E., 400, affirmed in 168 U. S., 90, 42 L. ed., 392, 18 Sup. Ct. Rep., 38; Saranac Land & Timber Co. vs. Roberts, 83 Fed., 436, affirmed in 177 U. S., 318, 44 L. ed., 786, 20 Sup. Ct. Rep., 642; Von Baumbach vs. Bade, 9 Wis., 559, 76 Am. Dec, 283; Myers vs. Wheelock, 60 Kan., 747, 57 Pac, 956; Russell vs. A. C. Akely Lumber Co., 45 Minn., 376, 48 N. W., 3; Dabbs vs. Rothe, 25 Tex. Civ. App., 201, 60 S. W., 811; Smith vs. Morrison, 22 Pick., 430.)

"Five months. (Bigelow vs. Bemis, 2 Allen, 496.)

"Four and one-half months. (Stine vs. Bennett, 13 Minn., 153, Gil., 138; Horbach vs. Miller, 4 Nebr., 31.)

"Three months. (Demoss vs. Newton, 31 Ind., 219.)

"Wherefore, in accordance with the provisions of sections 4 and 5 of Act No. 627, the claim of the applicants is held to be barred, the application is dismissed, and the lands embraced therein are adjudged to be public lands."

Twenty days hereafter let judgment be entered affirming the decision of the court below with costs against the appellants. So ordered,

Arellano, C. J., Torres, Mapa, Johnson, and Moreland, JJ., concur.

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