

THE MUNICIPALITY OF TACLOBAN, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS, OPPONENT AND APPELLANT.

G.R. No. 5542. January 04, 1911

Ponente: TORRES, J.

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TORRES, J.:

On April 6, 1908, the municipal president of Tacloban, Province of Leyte, filed an application in the Court of Land Registration, in representation of the said municipality, soliciting the inscription in the registry, in conformity with the law, of a parcel of land which it was alleged belonged to the municipality mentioned, as absolute owner of the same, situated within the town proper of Tacloban, not comprised within the reservation, bounded on the north by the land owned by the Chinaman La Layco, on the south by Calle San Roque, on the east by the lands belonging to Hilarion Asuncion and the municipality referred to, and on the west by Calle Rizal. The application further recited that the land concerned contained an area of 4,054.85 square meters, the description and boundaries of which were given in detail in the accompanying plan; that the said land was appraised at the last assessment, for the purpose of the payment of the land tax, at \$3,041, United States currency; that there was no incumbrance on the property, nor did any person have any right or interest therein, except the applicant; that it was acquired by being filled in by the municipality in 1893 and 1894; and that it was then occupied by the houses of Vicenta Bagay, Victor Cipres, Cirila Almeria, Sinforoso Labajo, Manuel Catalan, Hilaria Opiiio, Dalmacio Agaton, Gervasio Brillantes, Manuel Padilla, Rosa Juson, and Teresa Escorial. The applicant furthermore stated that, in case of the remote possibility of his application not being admissible under the Land Registration Act, he would, as municipal president, claim the benefits offered by Chapter VI of Act No. 926, inasmuch as the municipality had been in possession of the land since 1893, had used it for building purposes for the past fifteen years, and the property was inclosed on two of its sides by buildings.

On June 8, by reason of the summons and publications made in connection with the action taken on the aforementioned application, the Attorney-General appeared in representation of the Director of Lands and opposed the applicant's petition, on the ground that the land in question belonged to the Government of the United States and was under the control of the Government of these Islands, and asked that the registration applied for be denied.

The case came to trial on January 18, 1909; the court, in view of the oral evidence adduced by the applicant, rendered judgment by decreeing, after entry of a general default, the adjudication and registration of the property described in the application and plan aforementioned, in favor of the applicant, in conformity with the provisions of Act No. 926. To this judgment the Attorney-General took exception and moved for a new trial on the grounds that the court's findings of fact were openly and manifestly contrary to the weight of the evidence and that the latter did not warrant the conclusions of the judgment, which judgment was contrary to law. This motion was overruled, exception was taken by the Solicitor-General and the proper bill of exceptions having been filed, the same was certified to and forwarded to the clerk of this court.

The land sought to be inscribed in the property registry by the municipality of Tacloban, was, prior to 1891-1892,

a mangrove swamp which was inundated by the water of a nearby estero, although situated within the town proper, and was gradually filled in by order of the said municipality, between the years 1892 and 1894, when it was successively occupied by the houses of several of the residents of Tacloban, as the portions of the land were successively raised in level and freed from the water.

Since then, the municipality has exercised control over the said land and found it to its interest to collect rents from those who, without impediment of any kind, occupied it with their dwellings. Notwithstanding the efforts and labor expended by the municipality in improving the land for the benefit of the town, by reducing more and more the inundated area, and it is unquestionable that the said land, which was originally a mangrove swamp and was little by little converted into habitable ground, was and is unappropriated land belonging to the State; that it has not been granted or conveyed to any private party, nor to the municipality itself, without which condition it could not be considered as private property.

It was not shown that any building belonging to the municipality of Tacloban and intended for the public service was erected on the said land, nor that the property had been conveyed to the aforementioned municipality to form a part of the municipal assets or estate; therefore it can not be considered as one of the patrimonial properties of the municipality, nor entered in the name of the same in the property registry.

The mere fact that the municipality of Tacloban continued to charge and collect rents from the persons who built houses upon and occupied portions of the said land, is not proof that the municipality was the proprietor, for, as it had erected thereon no building intended for the service of the pueblo - a circumstance which, had it existed, would have led to the presumption that, in obtaining permission to erect the building, it also obtained a grant, if only an implied one, of the land, from the Government in the name of the State - in order that the said municipality may be deemed to be the owner of the land in question, it must prove that an express grant of the said land, as one of the properties that form a part of its patrimony, was made to it by the Government.

The municipality may be, at the most, a usufructuary of the land in question, but not the proprietor thereof having the right to enter the same in the property registry.

It is true that the land herein concerned is neither mineral nor forest land, but is comprised within the term of agricultural land; yet the mere occupation of the said property by the municipality during more than ten years immediately preceding the passage of Act No. 926, which went into effect on July 26, 1904, can not serve as a title whereby to acquire the ownership thereof pursuant to the provisions of paragraph 6 of section 54 of Act No. 926, inasmuch as, to do so, it is necessary that the municipality shall have an implied or express grant from the Government, without the fulfillment of which requisite it can not be presumed that a municipality owns and holds in good faith realty admittedly belonging to the State, enabling it to convert the same into *terreno propio* so as to form a part of its estate or municipal assets.

The benefit granted by section 54 of the said Act, to foster agriculture and increase the wealth of the country, can not be deemed to be granted, according to economic principles, to the municipal corporations which, on account of their special conditions, the idiosyncrasy and character of the functions which they exercise, and because of the administrative mission which they have to fulfill in the name of the Government and at the same time in representation of the people who elected them, can not engage in agriculture and other pursuits, nor can they, attend to the development, cultivation, or administration of agricultural land, and give special attention to other business, proper only for private parties, and other undertakings especially designed for their promotion, without serious detriment to the interests of the community.

Finally, it is to be noted that the said land situated within the town, is not common land or pasture land (*terreno o dehesa comunal*), because this class of land was usually laid off outside of the town; it had to be uncultivated land,

and was granted for the pasturage of stock and for other needs of the pueblo, in accordance with an express provision of the law.

For the foregoing reasons, it is our opinion that the judgment appealed from should be reversed and the case dismissed, without special finding as to costs. So ordered.

Johnson, Carson, Moreland, and Trent, JJ., concur.

Arellano, C. J., and Mapa, J., dissent.

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