

THE MUNICIPALITY OF TACLOBAN, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF LANDS, OPPONENT AND APPELLANT.*G.R. No. 5543. December 09, 1910*

Ponente: TORRES, J.

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On April 6, 1908, the municipal president of Tacloban, in behalf of his municipality, presented a written application in the Court of Land Registration, soliciting the registration of a parcel of land, of which the said municipality is the absolute owner according to the Land Registration Act, situated in the town proper of Tacloban and bounded on the north by Calle Gran Capitan, on the south by Calle San Roque, on the east by Calle San Juan, and on the west by the lands of Juliana Daylo and Norberto Romualdez, containing" 4,055.91 square meters and whose description, metes, and bounds are set forth in the plan accompanying the application. It was represented that the said property was appraised at the last assessment, levied for the purpose of the payment of the land tax, at \$811 United States currency, and the buildings at \$11,250 United States currency; that the said land was acquired at a very remote date as a gift from various landowners who were then residents of the pueblo of Tacloban; that there was no encumbrance of any kind on the property, and no person other than the applicant who had any right or interest therein; that the land was occupied by three buildings of strong materials; two primary public schools and the municipal building, now occupied by the provincial high school of Leyte; and that, in the improbable event of the said application not being in accordance with the Land Registration Act, the benefits provided in chapter 6 of Act No. 926 would be invoked, inasmuch as the municipality had been in possession of the land since time immemorial, and for seventy years past, more or less, had used it for building purposes, the property being inclosed on all sides by a board and bamboo fence.

In consequence of the summons and publications made by the Court of Land Registration, the Attorney-General, in behalf of the Director of Lands, opposed the registration applied for' and alleged that the land in question belonged to the Government of the United States and was under the control of the Government of the Philippine Islands, and asked that the said application be denied.

The case was heard on January 18, 1909, and testimony having been produced by both parties, the court, in view of the findings reached thereby and on the same date, rendered judgment by decreeing the adjudication and registration of the land described in the application and plan presented, which were attached to the record, a general default first having been ordered to be recorded in accordance with the provisions of Act No. 496. The Solicitor-General excepted to this judgment and moved for a new hearing on the grounds that the findings of fact of the court were contrary to the weight of the evidence, that the evidence did not sufficiently warrant the judgment, and that the latter was contrary to law; and the proper bill of exceptions being presented, it was certified and forwarded to the clerk of this court.

As the decision rendered by this court in case No. 5631,[1] originating in the Court of Land Registration and brought before us on appeal by the Attorney-General in representation of the Director of Lands, refers to the inscription in the Court of Land Registration of a parcel of land situated within the town of Catbalogan, the capital

of the Province and Island of Samar, which land had been and was occupied by the court-house or municipal building of the said pueblo, so likewise the present decision concerns the inscription in the Court of Land Registration of a parcel of land situated within the town of Tacloban, the capital of the adjoining Province and Island of Leyte, which land is at present occupied by three buildings of strong materials and serve, two of them, as primary schools for both sexes, and the other as the courthouse or municipal building of the said pueblo and a part of which is devoted to the use of the provincial high school.

The question submitted to this court for decision, through the appeal by the Attorney-General in representation of the Director of Lands, is whether the lot, at present occupied by two public school buildings and the municipal building of Tacloban and also used as quarters for the provincial high school, belongs to the said municipality, or is public Government land under the control of the Government of these Islands.

Whereas the land in litigation is now occupied by the court-house or municipal building of Tacloban, the capital of Leyte, and in order to avoid annoying repetitions, the relevant part of the decision rendered in case No. 5631, concerning the registration of land occupied by the municipal building or court-house of the pueblo of Catbalogan, the capital of Samar, is herein reproduced and is of the following purport (219-221):

"In order to obtain a better understanding of the final conclusion to be established in this decision, it is meet to state: That for the purpose of the establishment of new pueblos in this archipelago, at the beginning of its occupation by the Spaniards, an endeavor was always made to find, in favorable places, a certain number of inhabitants and, later, near the pueblos already established, barrios, which ordinarily served as a basis for the formation of other new pueblos that became as populated as the centers on which they were dependent.

"The executive authorities and other officials who then represented the Spanish Government in these Islands were obliged to adjust their procedure, in the fulfillment of their duties, with regard to the establishment and laying out of new towns, to the Laws of the Indies which determined the course that they were to pursue for such purposes, as may be seen by the following:

"Law 6, title 5, book 4, of the Recompilation of the Laws of the Indies, provides, among other things:

" 'That within the boundaries which may be assigned to it, there must be at least thirty residents and each one of them must have a house, etc.'

"Law 7 of the same title and book contains this provision:

" 'Whoever wishes to undertake to establish a new town in the manner provided for, of not more than thirty nor less than ten residents, shall be granted the time and territory necessary for the purpose and under the same conditions.'

"It may be affirmed that years afterwards all the modern pueblos of the archipelago were formed by taking as a basis for their establishment the barrios already populated by a large number of residents who, under the agreement to build the church of the new pueblo, the court-house and afterwards the schoolhouse, obtained from the General Government the administrative separation of their barrio from the pueblo on which it depended, in whose territory it was previously comprised. In such cases a procedure analogous to that prescribed by the Laws of the Indies was observed.

"For the establishment, then, of new pueblos, the administrative authority of the province, in representation of the Governor-General, designated the territory for their location and extension and the metes and bounds of the same; and before allotting the lands among the new settlers, a special demarcation was made of the places which were to serve as the public square of the pueblo, for the erection of the church and as sites for the public buildings, among others, the municipal building or the casa real, as well as of the lands which were to constitute the commons, pastures, and propios of the municipality, and the streets and roads which were to intersect the new town were laid out as may be seen by the following laws:

"Law 7, title 7, book 4, of the Recompilation of the Laws of the Indies, provides:

" 'The district or territory to be given for settlement by composition shall be allotted in the following manner: There shall first be set apart the portion required for the lots of the pueblo, the exido or public lands, and pastures amply sufficient for the stock which the residents may have, and as much more as propios del lugar, or common lands of the locality; the rest of the territory and district shall be divided into four parts - one of them, of his choice, shall be for him who takes upon himself the obligation to found the pueblo, and the other three parts shall be apportioned equally among the settlers.'

"Law 8, of the same title and book, prescribes, among other things:

" 'That between the main square and the church there shall be constructed the casas reales or municipal buildings, the cabildo, concejo, customs buildings, etc.'

"Law 14 of the said title and book also directs among other things:

" That the viceroys shall have set aside such lands as to them appear suitable as the common lands (propios) of the pueblos that have none, therewith to assist in the payment of the salaries of the corregidores and sufficient public lands (exidos) and pasture lands as provided for and prescribed by law.'

"Law 1, title 13 of the aforesaid book, provides the following:

" 'Such viceroys and governors as have due authority shall designate to each villa and lugar newly founded and settled the lands and lots which they may need and may be given to them, without detriment to a third party, as propios, and a statement shall be sent to us of what was designated and given to each, in order that we may have such action approved.'"

The pueblo and municipality of Tacloban, as the capital of the Island and Province of Leyte, must have been one of the first of the pueblos established and of which the said province is composed and there being no record that its casa real or municipal court-house was erected on any other or different land, it is to be presumed that, on founding that pueblo and on the competent authority proceeding, to designate and demarcate the area of land to be occupied as a site and for the future extension of the town of Tacloban, with its square, streets, and lots for the temple and other public buildings, the lot in question was also designated for the court-house, in accordance with the laws herein before mentioned, and in fact the municipal building was erected thereon very long ago, more than thirty years, according to the witnesses examined, and the municipal president, the applicant, averred that the pueblo of Tacloban had acquired the said lot by donation and had possessed it since time immemorial. It is also to be presumed that the adjudication of the said land in favor of the municipality to enable it to build its court-house thereon, was duly confirmed by the Spanish Government, as must be inferred, without proof to the contrary, in view of its continuous and peaceable possession for so long a period extending to the present time; nor does the record show that any other lot or different parcel of land was adjudicated to it, inasmuch as it was necessary and absolutely indispensable that every pueblo established should have its own casa real or court-house, the seat of its local authority, and also a church where its inhabitants might worship God.

For the same reason, other paragraphs of the said decision are quoted here below and are as follows (pp. 222-224):

"It is to be noted that, in former times, the court-house buildings of the pueblos were called casas reales (royal buildings), undoubtedly for the purpose of giving greater dignity to the principle of authority represented in them and inculcating respect among the inhabitants of the pueblo toward the building where the first local authority exercised his governmental duties and at the same time administered justice, for the old pedaneos or petty mayors, later called capitanes or gobernadorcillos, while they had governmental powers, at the same time administered justice as local judges.

"In paragraph 92 of the royal ordinances of February 26, 1768, the following appears, among other things:

" 'And because, while there is a notable excess of pomp in the buildings of the doctrinary ministers and parish priests, there is, on the other hand, great abandonment of the casas reales which, as a general rule, are not habitable on account of their inconvenient and ruinous condition, etc., * * * it is ordered that in all the pueblos, and especially in those of the seats of government, the native inhabitants thereof shall erect decent and convenient municipal buildings modeled after the plans to be furnished by the Central Government, and that therein the gobernadorcillos shall have their court rooms and their jails for the security of prisoners, and all leaks and other damages shall be repaired in time in order that, through omission, they may not cause greater detriment and expense.'

"If the inhabitants of a pueblo, at the time of its foundation, were obliged to erect their casa real or municipal building, it is to be supposed that they built it on their own ground after a designation of the site had been made by the governmental authority of the province - a designation which had to be made, according to the Laws of the Indies, at the same time with that of the main plaza and of the site to be occupied by the temple or church, which latter building is so necessary and indispensable for every pueblo, as well as the casa real or court-house, since in them, respectively, divine worship is had and the local authorities perform their duties. The land designated for the church is considered to belong thereto, and likewise the land intended for the court-house should be deemed to be the property of the pueblo awarded to it for the purposes of the public service of the municipality, since no pueblo was able to exist administratively without having a church of its own and a court-house which should be the seat of its local authority and its municipal government.

"It should be remembered that the court-house and the church of every pueblo were always built, in accordance with the provisions of the Laws of the Indies, on one of the sides of the plaza mayor or main square of the town, when not on the lateral line itself, each building on an opposite side; but the said square occupies nearly always a central site within the territory of the pueblo, with the exception of the frequent case where the town has extended toward only one end or side of the territory, in which event its main square ceased to be in the center of the town. However, the said square was never located outside of the inhabited place, as were the common and pasturages. (Law 13, title 7, book 4, Recompilation of the Laws of the Indies.)"

In the document Exhibit B, which is a certified copy of the minutes of the session held by the municipal council and the principal elders of the pueblo of Tacloban on September 23, 1901, it appears to have been recorded, among other things, that the lands belonging to the municipality are the lots where the municipal building and the schoolhouses for both sexes are built and, in front of these constructions, the public square, on one side of which stands the parochial church. From this description it is inferred that the said municipal building and schoolhouses are situated, together with the square and the church, in a central part of the town of Tacloban, where, in accordance with the express provisions of the Laws of the Indies, they should have been established, and the said buildings could not have been erected and the plaza mayor or main square located outside the town; therefore it can neither be presumed nor concluded that the land converted into a public square and the lots on which the parochial church and the schoolhouses now stand formed a part of the terreno comunal, exido or public pasturage land of the pueblo before mentioned.

The land in controversy belongs to the municipality of Tacloban.

Taking into account that neither the court-house of a pueblo nor its schoolhouses were constructed outside the town proper, at a distance from its inhabitants, the existence on the said land of two public schoolhouses, erected a great many years ago and used for purposes of instruction of children of both sexes residing in Tacloban, supports the characterization of the property as being private (bien propio), or part of the municipal assets, which is the status of the aforementioned land, and therefore the lot on which the said municipal building and schoolhouses are built is not a part of an exido, dehesa (public pasturage), or terreno comunal (common), because such lands could

only be situated outside of a town, in accordance with the provisions contained in laws 13 and 14, title 7, and 12 and 14, title 12, book 4, and law 8, title 3, book 6, of the Recompilation of the Laws of the Indies, and in No. 53 of the royal ordinances of February 26, 1768.

Notwithstanding the circumstances, not very favorable to instruction, which prevailed at that epoch, 1550, it was provided withal, by the sovereign of Spain, in law 18, title 1, book 6 of the Recompilation before cited, that instruction should be given to the natives by teachers who should teach them the Spanish language. Later, in No. 93 of the royal ordinances before referred to, a reminder was given as to compliance with the said Law of the Indies and other old ordinances relative to the establishment in the pueblos of schools under the direction of teachers well versed in the Spanish language, a provision confirmed by royal cédulas of June 11, 1815, and October 20, 1817, which emphasized the need of the establishment of schools for the instruction and education of the boys and girls.

By royal cédula of November 14, 1816, especially addressed to the "Governor, Captain-General of the Philippines," the king of Spain prescribed that -

"For this purpose it is ordered, by the laws and ordinances of the Indies and by various royal cédulas issued for their execution, especially those of January 28, 1778, November 5, 1782, and June 7, 1815, that the construction of the said schoolhouses be proceeded with in such pueblos of the Indies where there are none. * *

* And having again taken this matter into consideration, and desiring to remove the causes which may tend to delay the execution of the orders given, and to facilitate in so far as possible the remedying of the damages complained of by the said delegates, in agreement with the statements made to me by my council of the Indies in the consultation had on January 16 of this year, I hereby authorize you, after obtaining the required and indispensable reports, immediately to provide for the erection and establishment of primary schools in all the pueblos where they may be deemed necessary and proper for the civilization of the Indians. You shall endow these institutions with the revenues and excises specified in the said royal cédulas, and in default thereof, with such others as you may deem more opportune and less onerous, acting on the advice of my royal court, which you shall first consult, and you shall report the action taken to my supreme council for its approval, without prejudice, however, to your carrying it into effect. It is my will that you so do. Dated at the palace, November 14, 1816. I, the King."

Finally, the royal decree of December 20, 1863, in its article 7, provides as follows:

"ART. 7. The teachers shall enjoy the salary and other advantages provided for by the regulations. The said salary, as well as the establishment of the school, acquisition and preservation of school material and supplies, and the rent of the building where there be no public one for the purpose, shall constitute an obligatory expenditure to be paid out of the respective local appropriation."

So that the existence of schools of learning in the pueblos of these Islands really was a need felt and recognized in those remote times by the sovereign and the governing authorities of this country; and if the schools were, and are, necessary and indispensable for the progress and prosperity of the pueblos, and likewise the temples for divine worship, and the court-houses - the seat of the authorities - for the government and proper administration of a town, it is imperative to recognize that the church, the courthouse and the schoolhouse must have been built on lands comprised within the territory of each pueblo and expressly set aside for the purpose by the superior authority, with whose permission the church, municipal building, and school were erected. No one to this date has doubted that the land on which a church is built belongs to the followers of the faith to which it is dedicated, for the reason that if the government of this country had not, in the name of the sovereign, granted the land required for its construction, churches or temples could not have been built at the time of the foundation of the pueblos. For the same reason, it is of course to be presumed that a lot for the court-house and another for a schoolhouse were granted and awarded to the pueblo while in period of establishment, as propios. A proof that the grant was so

made is in the very fact that the said buildings were erected on those lots without opposition or contradiction on the part of the state, or of the superior authorities, under whose permission the buildings in question were constructed for use as schools and a court-house.

There are, in fact, pueblos which are without buildings for a court-house and schools, owing either to their absolute lack of means, negligence on the part of their principal residents or of their municipal councils, or to the central government's having provided that the said buildings should be devoted to other uses more suitable to the state, in which latter case the government paid the rental of the urban properties that were used and served as a school-house and as municipal offices.

It having been provided in article 3 of the said royal decree of December 20, 1863, that there should be at least one school for males and another for females in each pueblo of these Islands, it was prescribed in article 7, preinserted herein, that the salary of the teachers, the establishment of the school, the acquisition and preservation of school material and supplies, and the rental of the building, where there was no public one for the purpose, should constitute an obligatory expenditure to be paid out of the respective local appropriation. By this legal, administrative provision it is recognized that in some pueblos there are public-school buildings, as in the case of the pueblo of Tacloban, due to the zeal and patriotism of their principal residents; and it must be concluded that the court-house and the two school-houses aforementioned, together with the land on which they are erected, are, for lack of proof to the contrary, the private property of and belong to the said municipality and form a part of its municipal funds or assets.

In technical administrative terms, bienes propios are cultivated real properties, pasturages, houses or any other property which a city, village, or hamlet has for the payment of the public expenses. The administration of this class of property pertained to the municipalities. It could be alienated after proper procedure and authorization of the competent superior authorities, in accordance with the administrative laws.

It is therefore unquestionable that the assets of each pueblo comprised its bienes propios and the revenues or products derived therefrom, and this fact is recognized in the "ordenanza de intendentes" of 1786, the forty-seventh article of which reads:

"The funds which any pueblo may have left over as an annual surplus from the products of its propios and its arbitrios, after meeting the expenses specified in its own particular ordinance, shall be invested in the purchase of real estate and revenue-bearing investments, so that, having a sufficient income for the payment of its obligations and to aid in defraying its ordinary needs, the excise taxes, which are always a burden to the public, may be abolished; and in case it should have no such taxes, nor annuities to redeem on its propios or common properties, the said surplus shall be applied to promote establishments useful to the pueblo and to its province, any such investment to be previously proposed by the intendentes and approved by the junta superior."

Many years afterwards the royal decree of May 19, 1893, confirmed the old legislation by defining, in its twenty-fourth article, the property and revenues which constitute the assets of the pueblos, and which are, among others: A. The revenues and products of urban and rustic properties belonging to the pueblo. From this, the conclusion is drawn that the pueblos may have and hold revenue-bearing property of their own, and with all the more reason if the property had by a municipality is dedicated to the public service, as are the buildings and lot possessed under title of ownership by the municipality of Tacloban and which, without any doubt whatever, form a part of its municipal estate or assets, in accordance with the provisions of the said royal decree of May 19, 1893.

From the aforementioned decision rendered in case No. 6631, relative to the registration of certain real property belonging to the municipality of Catbalogan, the following quotations are also taken (pp. 225, 226):

"The said municipality is to-day in possession of the land in litigation, as the owner thereof, under the protection of the civil and administrative laws which guarantee the right of ownership of the corporations that are capable of contracting, acquiring, and possessing real and personal property.

"Article 343 of the Civil Code reads:

"'The property of provinces and of towns is divided into property for public use and patrimonial property.'

"Article 344 of the same code prescribes:

"'Property for public use in provinces and in towns comprises the provincial and town roads, the squares, streets, fountains, and public waters, the promenades, and public works of general service supported by the said towns or provinces.

"All other property possessed by either is patrimonial, and shall be governed by the provisions of this code, unless otherwise prescribed in special laws.'

"Section 2 of Act No. 82, entitled 'A General Act for the organization of municipal governments in the Philippine Islands,' is as follows:

"'Pueblos incorporated under this Act shall be designated as municipalities (municipios), and shall be known respectively by the names heretofore adopted. Under such names they may sue and be sued, contract and be contracted with, acquire and hold real and personal property for the general interests of the municipality, and exercise all the powers hereinafter conferred upon them.

"'All property and property rights vested in any pueblo under its former organization shall continue to be vested in the same municipality after its incorporation under this Act.'

"By this last-cited Act, of an administrative character, the rights of the old municipalities to acquire real and personal property, in accordance with their former organization, are recognized, and it is declared that the said property and rights shall continue to pertain to the municipalities created in harmony with the provisions of the Municipal Code, on account of such property being the patrimonial property of the municipalities."

In accordance with these principles, which harmonize perfectly with both the old and the modern legislation of this country, and taking into consideration the spirit underlying the Law of the Indies, and the purposes and tendencies of their provisions, ever favorable to the original holders of the land where, under the Spanish sovereignty, new towns were organized, the municipality of Tacloban ought to be considered as the owner of the land on which the municipal building and two schoolhouses, of a public character, were erected, on account of having been awarded to it as its exclusive property, on the founding of the said pueblo, for the record of the case offers no proof nor data whatever contrary to such award or grant. As the said municipality, the applicant, has been occupying the property by its own buildings during such a long space of time, much longer than that required for extraordinary prescription (art. 1959, Civil Code), it can not be denied that the presumption exists, in its favor, that it has been holding the land in its character of owner, since the trial record exhibits no proof that any other parcel of land, distinct from that in controversy, was awarded to the said municipality for the erection thereon of its court-house and schools, a church, schools, and a municipal building being necessary and indispensable for the normal existence of a regularly constituted pueblo.

The title under which the municipality of Tacloban holds and enjoys the land, the registration of which is in question, is the same as that now recognized to exist in favor of the said pueblo in support of its occupancy of the territory within which the town is established with its streets and squares, a title identical with that held at the present time by the church, as a religious institution, to the land now occupied by the temple that exists in the said pueblo. The grant and demarcation of the land to be occupied by the town, as well as the distribution and

allotment of the parcels thereof which were to constitute its squares and streets and of those to be occupied by the church, the municipal and other public buildings, and also of the parcels to be apportioned among its first settlers, must all have been set forth in a record made at the beginning, and that record must have been preserved at least in the archives of the provincial government, since it is improbable that it could have been kept in those of the municipal building, considering the changes wrought by time; wherefore it is not at all strange that the first settlers of a town in formation should lack their respective titles to accredit their ownership to the parcels of land which fell to each of them in the partition made of the lots, for in those remote times fewer records were kept, the archipelago was sparsely populated and there were abundant lands for distribution, for which reasons the mere fact of the erection of a church, the municipal building, and schools, carries with it the presumption that the land on which they are built was allotted to the Church and to the municipality for the public service. No proof whatever was offered at trial against such a presumption, and therefore there exists no legal ground nor equitable reason why the right of the municipality of Tacloban to the land in question ought not to be respected, a right of ownership consecrated by the laws of every civilized country for the benefit of society, of public order, and of civilization itself.

In view of the facts logically and justly supposed and of the legal grounds above noted, it is of course shown that the municipality of Tacloban, as an administrative entity susceptible of rights and duties, has no need to rely upon the right that is derived from prescription in order that it may be held and reputed to be the owner of the land or lot on which buildings belonging to it are erected, for the construction of which the said land was assigned and adjudicated to it when the pueblo was founded, as has been amply proven in the preceding paragraphs.

For the purpose of proving that the said land occupied by the court-house and schools of the pueblo of Tacloban, the capital of Leyte, is not comprised within an exido, dehesa, or terreno comunal, it behooves us to state that in the initial foundation of a pueblo in these Islands, in accordance with the provisions of the Recompilation of the Laws of the Indies, lands were marked out for it which had an area such as would be inclosed by a perimeter 4 leguas in length, in the figure permitted by the conditions and circumstances of the place. This measure of area was that adopted also when the undertaking of founding a town in a given place, with the authorization" of the Government, was intrusted to a private party by virtue of a contract, as when the legitimate representatives of the sovereign *motu proprio* proceeded with the organization of a pueblo in the manner and under the conditions required by the laws in force in that epoch.

In either case, on the demarcation of the land to be occupied by the new pueblo and before proceeding to distribute the lots among its settlers, they decided upon the sites for the location of the public square and the streets of the town and the lots on which the temple, the municipal and other public buildings should be constructed, and afterwards they set aside, without the perimeter within which the pueblo was to be situated, a certain area of land which was to constitute the exido, dehesa, or terreno comunal, and all in accordance with the Laws of the Indies. So that the square and streets, and the lots to be occupied by the temple, the municipal building, and the schools, could be in no manner situated nor comprised within the terreno comunal, dehesa, or exido of a pueblo, inasmuch as the said lots were necessarily within the town, and the latter lands without it.

Subsequent provisions of law confirm the foregoing statements, and in this connection the royal decree of February 28, 1883, provides:

"Article 1. The legua comunal for the Philippine Islands, under the provisions of Law 8, Title 3, Book 6 of the Recopilacion de Indias, so far as the pueblos already established and those which may be established hereafter are concerned, shall be of an area of 20,000 feet, equivalent to a league of 20 degrees, without regard to the geometrical figure resulting from the topography of the locality, or to conditions relating to property rights over the land itself or over land adjoining the same.

"Art. 2. The pueblos not having said land allotted to them may apply and obtain the same by means of the corresponding proceedings.

"Art. 3. When the conditions so require, the pueblos may institute proceedings to obtain an extension of said comunal land, in order that the latter may be in keeping with the number of inhabitants, the number of heads of cattle owned by them, and the topographical conditions of each pueblo."

In order to comply with and carry out the said royal decree, the General Government, on the recommendation of the Direccion General de Administracion Civil, promulgated among other regulations the following:

"For the legua comunal uncultivated land shall be selected, whenever possible, which may be in proper condition for the pasture of cattle and cultivation of building timber and the necessary industries to meet the requirements of the inhabitants.

"The area of the land having been determined by the General Government, the Bureau of Forestry shall proceed with the designation and the setting of boundary marks of the new comunal land, and a certificate shall be executed in the same form as previously stated."

And in order to clear up any doubts with respect to the fulfillment of the said royal decree of February 28, 1883,, it was provided by royal order of January 17, 1885, that -

"The legua or dehesa comunal shall be situated on uncultivated lands within the territorial limits of the pueblo for whose benefit it was intended and shall not comprise lands belonging to the district of another pueblo."

It having been proved in a conclusive manner that the land in litigation is situated within the town of Tacloban and on one side of its public square, it is unquestionable that under no consideration could it be comprised within the pasturage land known as dehesa comunal which, if the pueblo of Tacloban had any, would be outside the perimetrical limits of the town, though within its territorial district, among its uncultivated lands; and therefore the said law 8, title 3, book 6, article 53 of the Ordinances on Good Government, of February 26, 1768, which treats of the comunal lands of the pueblos, and the royal decrees, order, and superior decree before referred to, have no application in the present case, neither does the doctrine established in *The City of Manila vs. The Insular Government* (10 Phil. Rep., 327) apply, inasmuch as the present case does not concern comunal land, but a lot owned by the municipality of Tacloban, situated in the town, together with the buildings thereon erected, all held by it as property of its own of a patrimonial character, without contradiction or proof of any kind to the contrary. It must not be forgotten that the concession and adjudication of lands or lots for the construction of the temple, the municipal building, and the schoolhouses, were made in obedience to a need at the time of the foundation of the pueblo, while the demarcation and concession of comunal land or dehesa comunal were effected for the convenience of its settlers.

We have endeavored to find among the precedents of reported American cases a doctrine opposed to the conclusions herein established, but have found no well-defined one in an analogous case. The decision rendered in the suit of *The United States vs. Santa Fe* (165 U. S., 675), involves the right acquired through operation of the law by the city of Santa Fe, to 4 square leagues of land in the immediate vicinity thereof, by virtue of a grant made in fact by the laws of the *Recopilacion de Indias*, a right which was not recognized as legitimate by the Supreme Court and it therefore reversed the judgment of the lower court with instructions to dismiss the application looking to the establishment of that claim. The case at bar is entirely distinct from that in the case just cited, and therefore the doctrine laid down in the decision of the Supreme Court of the United States is not applicable to this litigation, for the reason that the four leagues of land specified in the *Laws of the Indies* were those usually assigned to a pueblo, in the demarcation of the site at the beginning of its foundation, as the territory which it might occupy in its subsequent development, but, after the said four leagues had been populated, any

unappropriated or uncultivated portion of territory which it should succeed in annexing to its original territory had to be so annexed by virtue of an express grant from the sovereign power as an exido, dehesa, or terreno comunal. This theory, based entirely on the legal provisions above cited, bears no relation whatever to the case of the segregation of a populated barrio, with its lots and lands of private ownership, from the original pueblo of which it formed a part, and its annexation to another adjoining pueblo, which could only be accomplished through action and decision taken by the General Government, with the approval of the Government of Spain.

Moreover, it is likewise to be noted that the municipality of Tacloban, in the exercise of the right of ownership over bienes propios exclusively belonging to it, has an independent personality of its own, recognized by law, and does not act, with respect to its patrimonial property, as a mere delegated agent of the central power, without prejudice to the right of inspection established by the administrative laws for the benefit of the pueblo itself and the country in general; wherefore the doctrine established in the case of Aguado vs. The City of Manila (9 Phil. Kep., 513) is likewise inapplicable to this litigation, inasmuch as the present case does not concern any contract entered into by the said municipality and a private party, nor administrative acts or proceedings whereby the municipality might be considered as a delegate of the Government.

For the foregoing reasons, and holding that the municipality of Tacloban is the legitimate owner of the land now occupied by its court-house and two public schoolhouses and has a perfect right to have the said land registered in its name in the registry of property, in accordance with law, it is competent, in our opinion, to affirm, as we hereby do, the judgment appealed from, exactly as pronounced by the Court of Land Registration,

Arellano, C. J., Moreland and Trent, JJ., concur.

[1] Municipality of Catbalogan vs. Director of Lands, page 216, supra.

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