

## THE MUNICIPALITY OF CATBALOGAN, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF LANDS, OPPONENT AND APPELLANT.

*G. R. No. 5631. October 17, 1910*

Ponente: TORRES, J.

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### **TORRES, J.:**

On June 19, 1908, the municipal president of the pueblo of Catbalogan, Province of Samar, filed, in the name of the municipality, an application with the Court of Land Registration in which he asked for the registration, in conformity with the Land Registration Act, of a parcel of land of which the said municipality was the absolute owner, bounded on the north by calle Corto south of the church square, on the east by Second Avenue, on the south by land belonging to Smith, Bell & Co., and on the west by First Avenue; the application states that the said land has an area of 666.60 square meters and its description and boundaries are given in detail in the map attached to the application, which sets forth that the property described was appraised at the last assessment levied for the purpose of the payment of the land tax, and that there is no encumbrance on it; that no one other than the applicant, to the latter's best knowledge and belief, has any right or interest therein; that the said land was acquired by possession and material occupation for a large number of years and is at present occupied by the applicant as a municipal corporation duly organized; and that, in the unlikely event of the denial of the said application, made in accordance with the Land Registration Act, the applicant invokes the benefits of chapter 6 of Act No. 926, since the said corporation has been in possession of the land mentioned, which is entirely surrounded by a fence, and has been cultivating it for a great many years.

On March 18, 1909, the Attorney-General, in representation of the Director of Lands, filed a writing opposing the registration solicited and alleged that the land in question belonged to the United States and was under the control of the Government of the Philippine Islands. He asked that the applicant's prayer be denied and that, in case the said property should be declared to belong to the Insular Government, the same be awarded to it, together with the issuance thereto of the proper certificate of registration.

The case having been heard on March 22, 23, and 24, 1909, and oral evidence adduced by both parties, the judge, on the 24th of the said month, overruled the opposition of the Director of Lands, and decreed, after a declaration of general default, that the property in question be awarded to the applicant, the municipality of Catbalogan, and be registered in its name. The Attorney-General, in representation of the Director of Lands, excepted to this ruling and announced his purpose of filing a bill of exceptions. He asked at the same time for a new trial on the grounds that the findings of fact of the court were openly and manifestly contrary to the weight of the evidence, and that the latter did not justify the said decision which, he alleged, was contrary to law. This motion was denied and exception was taken thereto by the Attorney-General, who duly presented the required bill of exceptions which was certified and forwarded to this court.

The question submitted to the decision of this court, through the appeal raised by the Attorney-General in representation of the Director of Lands, is whether the lot occupied by the court-house of the municipality of Catbalogan, of the Island and Province of Samar, belongs to the said municipality or is state land under the

control of the Insular Government.

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 nucleus 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 and in whose territory it was previously comprised. In such cases 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 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 {proprios) 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 municipality of Catbalogan, as the provincial seat of Samar, must have been the first and oldest pueblo established in the said province and has been occupying, if not since time immemorial, as affirmed in the application, at least for a long period of years, some forty or forty-five years according to the evidence given at trial, the lot in litigation on which it had built the successive court-house buildings constructed for the public service of the head municipal authority and his council. Some of these buildings were burned and others were ruined by typhoons. The court-house building aforesaid has been used and enjoyed quietly and peaceably and without any opposition up to the present time, wherefore it is to be presumed that, on founding the pueblo and on proceeding to designate and demarcate the area of land to be occupied by the town of Catbalogan, with its square, streets, church, and other public buildings, the said lot was also designated' as a site for the municipal or court building, in accordance with the laws herein before mentioned, and that the adjudication of the lot to the municipality for its court-house was duly confirmed by the Spanish Government, as must be inferred, in view of the continuous possession for so long a time up to the present; nor does the record show that the court-house of the said pueblo was ever built on any other lot than the one in question.

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 chief 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 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 uncomfortable and ruinous conditions, 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 gobernador cillos 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 neglect 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 as 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 public uses 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, either together or the same side, or each building on an opposite side; but the said square nearly always occupies a central site within the territory of the pueblo, with the frequent exception of 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 commons and pasturages. (Law 13, title 7, book 4, Recompilation of the Laws of the Indies.)

It is of course to be presumed<sup>1</sup>, in accordance with the provisions of the laws aforementioned, that the main square of the pueblo of Catbalogan occupies nearly the central part of its territory, and that the lot on which were successively constructed the several court-houses which the said pueblo has had, is situated on one of the sides of the said square and consequently in a central point and not outside the town. It can not, however, on account of this circumstance, be concluded that the said lot formed a part of the commons, exido, or the pasturage lands of the said pueblo, but consisted of land which belonged to the pueblo and was legally acquired through the distribution and adjudication of lots made at the beginning of its foundation, as proved by the laws hereinbefore quoted.

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 lay with the municipalities, and they 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 property and its taxes, 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 common properties (propios), the said surplus shall be applied to promote establishments useful to the pueblo and to its province, or by investments to be previously proposed by the intendentes and approved by the junta superior."

From the foregoing it is concluded that the land in question is the common property of the pueblo and is comprised within the patrimonial property of the municipality of Catbalogan, to which it was awarded for the construction thereon of the court-house, on the demarcation and distribution being made of the lands which were to be occupied by the town in its development, in accordance with the provisions of the Laws of the Indies, and other complementary laws, at a time when there was an excess of land and few inhabitants to occupy them. It was for this reason that the royal cedula of October 15, 1754, directed that neither the possessors of unappropriated crown lands, nor their successors in interest, should be disturbed or denounced, although they had no titles, it being sufficient for them to prove their prior possession to obtain a title by just prescription.

The said municipality is today 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 "The Municipal Code," is as follows:

"(a) 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.

"(b) 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 administrative Act 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.

Under these principles, perfectly in accord with both the old and the mother legislation of this country, the municipality of Catbalogan ought to be considered as the owner of the land in question, on account of the same having been awarded to it as its own, under its exclusive ownership, on the founding of the pueblo, for the erection of the court-house, the record of the case showing no proof nor data to the contrary. As the plaintiff municipality, the applicant, has been occupying the property on which its court-house is situated during such a long space of time, much longer than that required for extraordinary prescription (art. 1959 of the 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, a court-house and the land on which to build it being necessary and indispensable for the existence of the pueblo.

The title under which the municipality of Catbalogan holds and enjoys the said lot is the same as that under which it is recognized as a pueblo and under which the municipality is justified in its present occupancy of the territory where the town is established with its streets, squares, and common lands (*terreno comunal*), a title identical with that now held by the church, as a religious institution, to the land now, occupied by the temple that exists in the said pueblo.

At the time of the beginning of the foundation of the pueblo mentioned and of the distribution or allotment of the lands among its first inhabitants, who, in accordance with the Laws of the Indies, must have numbered at least thirty men with their respective families, for the purpose of founding a pueblo, perhaps none of them was provided with any particular title to accredit the fact that this or that parcel of land had fallen to him in the

allotment. Possibly the facts pertaining to the distribution of the lands were entered in the record kept of the organization of the pueblo, if one such was made, for it must be remembered that, in ancient times and up to the years immediately preceding the beginning of the nineteenth century, fewer records were made than in modern times, and, besides, the Laws of the Indies themselves recommended that, in administrative proceedings, the institution of suits should be avoided in so far as possible where verbal information and investigations could be had to enable proper action to be taken,

Besides the reasons hereinabove noted, there is that of the continuous and constant renovation of the personnel which composed the officials of a municipality in the Philippines, for the pedaneo or gobernadorcillo, his tenientes, judges, and other subordinates were first chosen and appointed annually, and later every two years; and, although in the beginning the capitan pedaneo of the pueblo may have had in his possession the record of the necessary concession and award of the land on which the court-house was built, and that of the pueblo of Catbalogan was constructed of stone, it would in nowise be strange that, in spite of the zeal and diligence which may have been exercised by his many successors, the said record or title should have disappeared or been destroyed in the case of Catbalogan, during the lapse of so long a time; indeed, it would be marvelous and extraordinary that such a document should exist, intrusted to the more or less diligent care of so many municipal officials who, at the most, occupied their offices but two years. It is certain, however, that the successive court-houses which the said pueblo has had have occupied the land in question without opposition on the part of anyone, or of the state, and including the building which served as a court-house, together with the land on which it is built, as one of the properties which form the assets of the pueblo of Catbalogan, as they should be classed, it is incontrovertible that the right of the said municipality therein must be respected, as the right of ownership is consecrated and sanctioned by the laws of every civilized country in the interest and for the benefit of society, public order, and civilt&ation itself.

As has been shown in the preceding paragraphs, the land in litigation, which is a lot occupied by the court-house, anciently termed the casa real, of the pueblo of Catbalogan, pertains to the said pueblo, awarded to the same, not gratuitously, but on account of the necessity arising from its organization, and forms a part, as a patrimonial property, of its municipal assets, and therefore it is not comprised within the common land (terreno comunal) which may have been granted to the said pueblo. Law 8, title 3, book 6 of the Recompilation of the Laws of the Indies, is not applicable to the question at issue with respect to the said land or lot, nor are the provisions of article 53 of the ordinances of good government, before cited, of February 26, 1768, nor the subsequent royal decrees of February 28, August 1, 1883, and of January 17, 1885, relative to the legua or terreno comunal; and, consequently, the doctrine laid down in the decision rendered in the case of *The City of Manila vs. The Insular Government* (10 Phil. Rep., 327) is likewise inapplicable, for the reason that the land in dispute is not that of a common, but of a building lot of which the pueblo of Catbalogan had absolute need at the beginning of its organization for the erection thereon of its court-house. This was duly proved at trial, without possible contradiction.

Notwithstanding the number of years during which the municipality of Catbalogan has been in possession of the lot, once it has been shown by unquestionable evidence that the property was assigned to it as its own, in order that it might erect its court-house thereon, as it did do at the beginning of its foundation, and its possession of the said land not being by mere unlawful occupation, the municipality has no need to rely upon the right of prescription, although, being entitled to acquire and possess property in the character of owner, according to its organic law, it is not understood why it could not acquire such right by prescription in accordance with law, it being, as it is, a juridical person susceptible of rights and duties.

The present case has nothing to do with any contract made by the old municipality of Catbalogan, nor

administrative acts or procedure of the applicant herein, but relates to its right of ownership in a parcel of land vested with the character of bien propio of its own, or patrimonial property; for which reason the doctrine established in the decision rendered in the case of Aguado vs. The City of Manila (9 Phil. Rep., 513) is also inapplicable, inasmuch as the said municipality, in the exercise of the right of ownership in its own property, has an independent personality of its own, recognized by law, and does not act as a mere delegate of the central authority.

For the foregoing reasons, and considering that the municipality of Catbalogan is the owner of the land occupied by its court-house and that it is entitled to have the said property registered in its name in the Court of Land Registration, it is proper, in our opinion, to affirm and we hereby affirm the judgment appealed from in its present form.

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

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