

MUNICIPALITY OF LUZURIAGA, PLAINTIFF AND APPELLEE, VS. THE DIRECTOR OF LANDS AND THE, ROMAN CATHOLIC BISHOP OF JARO, DEFENDANTS AND APPELLANTS.

G.R. No. 6996. January 29, 1913

Ponente: MORELAND, J.

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MORELAND, J.:

An appeal from a judgment of the Land Court registering title to the lands described therein in the petitioner.

This was originally a proceeding to register one parcel of land located in the barrio of Bungao, municipality of Luzuriaga, Oriental Negros, bounded upon the north by Calle Luzuriaga, on the east by Calle Smith, on the south by Calle Larena, and on the west by Calle Luna. There being at the time also pending a proceeding by the same municipality to register a parcel of land adjoining the one just described, the two proceedings, numbered in the Land Court 5830 and 5829, respectively, were consolidated, the evidence as to both heard at the same time, and title to them registered by the same decree.

It appears that the municipality of Luzuriaga, while organized under the laws in force in this country only since 1901, had existed as a municipality under the Spanish regime from time immemorial under the name of Nueva Valencia. The parcel of land described in case No. 5829 was obtained by the municipality by exchange with Mariano Ymbo in the year 1907, as appears from a document of transfer introduced in evidence and marked Exhibit B, as well as by the oral testimony of Mariano Ymbo himself. Ymbo obtained this piece of land by purchase from Marciana Los Baños and her sister, who in their turn had acquired it by inheritance from their parents. It also appears from the evidence that the municipality and its predecessors have occupied and administered the land as owners for something like thirty years. This parcel of land is enclosed by a barb wire fence and is at present used as a municipal cemetery.

The parcel of land involved in case No. 5830 adjoins the parcel of land included in case No. 5829. There is at present located upon said parcel of land the public market of the municipality and also a cockpit. These buildings have stood upon this land for something like thirty years, according to the evidence, and the municipality has occupied and administered said land as owner for a period of about forty years.

The Government is the only respondent who appeared in opposition to this registration, and is the only appellant. As to the parcel of land described in case No. 5830, the opposition is rested upon two grounds: First, that it is presumed as a matter of law that the land upon which the public market and the cockpit are built is the land of the State, and that, in order to show a good title thereto, it is necessary to prove an express grant from the State, it not appearing that said parcel of land had ever been occupied by the courthouse of the pueblo or that it had ever been occupied as a public school. Second, that the parcel of land in question is a public square, and cannot, therefore, be registered under authority of *Nicolas vs. Jose* (6 Phil Rep., 589).

We do not believe that either of these contentions is sound. The municipality, having used this land for so many years for , which have for their basis' a public necessity, undisturbed and unchallenged, a grant in its favor will be

presumed in the absence of evidence to the contrary.

In the case of the Municipality of Catbalogan vs. The Director of Lands (17 Phil. Rep., 216), the court said at page 226:

"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 courthouse, 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 courthouse is situated during such a long space of time, much longer than that required for extraordinary prescription (art. 1959 of the Civil Code), it cannot 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 courthouse, 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."

The court further says at page 220:

"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 (*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 court also said on page 228 :

"As has been shown in the preceding paragraphs, the land in litigation, which is a lot occupied by the courthouse, 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."

In the case of the Municipality of Tacloban vs. Director of Lands (17 Phil. Rep., 426, 433), the court said:

"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 courthouse 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 courthouse, in accordance with the laws hereinbefore 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 courthouse 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, in as much as it was necessary and absolutely indispensable that every pueblo established should have its own casa real or courthouse, the seat of its local authority, and also a church where its inhabitants might worship God."

On page 439 appears the following:

"Taking into account that neither the courthouse 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 the 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."

On page 439 the court said:

"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 courthouse and the two schoolhouses 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 and assets."

On page 442 appears the following:

"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 Laws 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 cannot 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 courthouse and school, 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 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."

From these quotations it is clear that, where the municipality has used the land for the purposes specified from time immemorial, a grant from the state in favor of the municipality will be presumed. The land, however, to be susceptible of that presumption must have been used for recognized public purposes, based upon a public necessity in relation to which the Government was wont to grant lands to municipalities in former times.

In the case of the *Municipality of Tacloban vs. Director of Lands* (18 Phil. Rep., 201), it was held that:

"When, on the part of a municipality petitioning for the inscription of land, it is not shown that the land was granted by the Government to the municipality to form a part of the municipal assets or estate, or that a municipal building was erected thereon for public purposes, a circumstance which would have led to the presumption that, in obtaining permission to erect the building it also obtained a grant of the land, express or implied, from the Government, the municipality cannot be considered as the proprietor of the land with a right to inscribe the same in the property registry."

It was also held in that case that:

"The mere fact that a municipality continued to collect revenues or rentals from the residents who occupy any parcel of land comprised within its district, is not proof that the said municipality is the proprietor of such realty; at the most, it might be considered to be a usufructuary of the land in question, but without the right to enter it in the property registry."

It was further held that:

"The benefit granted by article 54 of Act No, 926, for the purpose of fostering agriculture and increasing the wealth of the country, cannot be deemed to be granted, according to economic principles, to 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 in representation of the people who elected them, cannot engage in agriculture and other industries nor can they attend to the administration of agricultural land and give particular attention to strictly private business, without serious detriment to the interests of the community."

It is apparent from these quotations that, as we have said before, in order that the municipality may rely upon a presumed grant from the State in its favor, the land concerning which the grant is to be presumed must have been used by the municipality for the purposes specified in said quotations, namely, to meet a public necessity, and therefore must be land which would have been originally granted by the State for such purposes. In other words, the lands susceptible of this presumption cannot be agricultural or communal lands; they must be lands which the municipality itself can exclusively own, i. e., they must be lands used to meet a public necessity.

Although the decisions mentioned do not refer to municipal markets as one of the purposes for which the State granted land to municipalities, that does not militate against our finding that the purposes for which land could have been granted to municipalities by the State as specified in those decisions are not all of the purposes for which the State could, or did, grant land to municipalities. There is at least one other purpose which may be considered to be based upon a public necessity for which the State could have granted, and did grant, lands to the municipalities, namely, for public markets. In many parts of the Islands, formerly as now, municipal markets were, and are, in a very real sense public necessities. While, from the strict standpoint of necessity, there is undoubtedly a difference between a courthouse, for example, and a municipal market, still it is one of degree rather than of kind; and where it appears, as in this case, that a public market was a necessity of the municipality, that the land has been the site of such market for time out of mind, and is still dedicated to such use, the presumption of a grant from the State arises.

As to the claim that the land is part of the public square, we do not think it well founded in the evidence. The court below found against the contention, upon the ground that the land was occupied as aforesaid and that it was separated from the public square by a street. While one of the witnesses for the petitioner stated that it was a part of the public square, he thereafter amended his testimony so as to say that it was a continuation of the public square.

As to the other parcel of land, there is no question on this appeal.

We think that the decision of the court below was well founded and therefore affirm it, without special finding as to costs.

Arellano, C. J., Torres, Johnson, and Trent, JJ., concur.

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