

MUNICIPALITY OF HAGONUY, PETITIONER AND APPELLANT, VS. THE ROMAN CATHOLIC ARCHBISHOP OF MANILA, RESPONDENT AND APPELLANT.

G.R. No. 7997. January 25, 1915

Ponente: CARSON, J.

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CARSON, J.:

In these proceedings the applicant, the municipality of Hagonoy, sought to secure the adjudication and registry in its favor of a number of parcels of land located in that municipality. The Roman Catholic Archbishop of Manila opposed the petition in so far as it related to the third and fifth parcels of land described therein, and the Director of Lands on behalf of the Philippine Government opposed the registry of the third, fifth, sixth, seventh, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth parcels of land therein described.

The decree entered by the trial court sustained the objections of the Director of Lands to the registry of the sixth and seventh parcels, but denied the prayer for the registry of the third parcel on the authority of the ruling of this court in the case of *Catalino Nicolas vs. Maria Jose* (6 Phil. Rep., 589), holding that this parcel of land is a municipal plaza and as such not subject to registry. From this decree both the Roman Catholic Archbishop of Manila and the municipality of Hagonoy appealed, and the record is now before us on their separate bills of exception.

We are of opinion that the trial court properly denied the registry of parcels 6 and 7 in accord with the doctrine laid down in our decision in the case of *Municipality of Tacloban vs. Director of Lands* (18 Phil. Rep., 201), wherein we held as follows:

"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."

Counsel for the municipality contend that the trial court should have decreed the registry of these parcels under the general doctrine laid down in the case of *Municipality of Luzuriaga vs. Director of Lands* (24 Phil. Rep., 193), wherein we held: "Where a municipality has used land from time immemorial for recognized public purposes based upon a public necessity, which purposes and necessity were formerly recognized by the Government as a

basis for a grant of land to a municipality, a grant from the state in favor of the municipality will be presumed."

It does not appear, however, that these parcels of land have ever been used for any recognized public purposes based upon a public necessity which were formerly recognized by the Government as a basis for a grant of land to a municipality. On the contrary, it affirmatively appears that these lands have never been used for any such purposes. True, the municipality appears to have been long in possession of these parcels of land, and to have made it a practice to rent them to private persons and to apply the proceeds to general municipal purposes. It appears also that they would furnish suitable sites for any public buildings which the municipality might in the future desire to erect, and that they adjoin other lands of the municipality upon which it has erected public buildings now in use for municipal purposes. But the mere possession of these parcels of land, unless they are shown to have been actually used for public purposes based upon a public necessity such as was recognized by the former government as a basis for a grant of land to a municipality, is not sufficient ground to sustain a presumption of an actual grant from the former government, and there being no evidence in the record other than the fact of possession in support of the municipality's claim that it had acquired title thereto, the trial court properly declined to adjudicate and register these parcels in its favor.

As was said in the case of *Municipality of Tacloban vs. Director of Lands* (*supra*): 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."

As to the contentions of counsel for the Roman Catholic Archbishop of Manila, we are of opinion that they are sufficiently and satisfactorily disposed of in the opinion of the trial judge. A careful review of the whole record satisfies us that the findings of fact by the trial judge are fully sustained by the evidence of record, and upon these findings of fact it is very clear that the trial court properly rejected the claim of ownership set up in behalf of the church.

It appears that parcel 5 has been used by the municipality as a market place for more than fifty years, and that parcel 3 has for many years been used by the people of the municipality as a sort of public plaza, although it does not appear to have been formally dedicated as such until recent years. We agree with the trial judge that the evidence falls far short of being sufficient to sustain the contentions of counsel for appellant that the long continued use and occupation by the municipality was subject to the control of the church, and that the municipality exercised its alleged right to use and occupation with the consent and subject to the will of the church and its local representatives.

We conclude that the judgment entered in the court below should be affirmed, with the costs of this instance against the appellants. It is so ordered.

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

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