

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER AND APPELLEE, VS. THE MUNICIPALITY OF BINALONAN, OBJECTOR AND APPELLEE, THE ROMAN CATHOLIC BISHOP OF NUEVA SEGOVIA, OBJECTOR...

G.R. No. 8243. December 24, 1915

Ponente: TRENT, J.

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TRENT, J.:

This is a registration proceeding instituted by the Director of Lands under the provisions of section 61 of Act No. 926, seeking to compel the registration of all private property within a prescribed area in the municipality of Binalonan, Province of Pangasinan. This appeal is brought by one of the private claimants to two parcels of land within that area.

A question has arisen in the discussion of this case as to whether section 61 of Act No. 926 authorizes the institution of compulsory registration proceedings against private owners or whether it is not confined exclusively to public lands. It is said that Act No. 926 is not applicable to any other than public lands, or, at most, lands claimed by the Government. In other words, it is said that the Act does not touch upon the compulsory registration of private titles. Reference is made to the Cadastral Act (No. 2269), which specifically authorizes the Director of Lands to institute compulsory registration proceedings against all owners and claimants of property within any area which has been regularly surveyed and platted under the procedure prescribed in the Act, and the inference is drawn that section 61 of Act No. 926 does not permit of similar proceedings, else the Legislature would not have found it necessary to enact Act No. 2259. Attention is also directed to the title of the Public Land Act, which contains no mention of compulsory registration proceedings. No reference is made in Act No. 2269 to the repeal or amendment of section 61 of Act No. 926, and the inference to be drawn from this is that, in the view of the Legislature, the latter did not concern the subjectmatter of the new Act. Thus, we have arguments based upon the supposed exclusive subject-matter of the Public Land Act, upon the failure of the title of that Act to indicate that it contains anything relating to compulsory registration, and upon a subsequent statute providing for compulsory registration of privately owned lands without expressly referring to any previous legislation relating thereto, all of which point to the absence in Act No. 926 of any provision for the compulsory registration of such privately owned lands. These are but inferences, however, as to what section 61 of Act No. 926 contains. They do not afford a conclusive test as to the scope of that Act. Their effectiveness depends upon the relative clearness of the language used in the Act.

So far as the title is concerned, the Philippine Legislature is not required by the Organic Act to make the title of a public or general Act a complete index of its contents. (*U. S. vs. Fonseca and Magno*, 20 Phil. Rep., 191.) Our present law of perjury is found in two sections of an Act entitled "An Act authorizing the appointment of commissioners to make official investigations and fixing their powers, for the payment of witness fees, and for the punishment of perjury in official investigations." We have held that, notwithstanding the failure of the title to express an intention to define and punish the crime of perjury generally, the language of the Act admitted of no

other interpretation. It is well settled that in the absence of constitutional requirements the title of an Act is only to be used as a guide to ascertaining the legislative will when the language of the Act does not clearly express its purpose.

Chapter VI of the Public Land Act, wherein is included section 61, is the only chapter of the Act containing provisions for the compulsory registration of titles by means of judicial proceedings. It is entitled "Unperfected titles and Spanish grants and concessions." It is clear that section 54 relates exclusively to public lands to which private persons have one or the other of the inchoate titles specified in that section. Sections 55 to 60, inclusive, may also be conceded to treat of certain incidents arising out of the attempted enforcement of the rights granted by section 54. So that thus far, the entire chapter is devoted to questions relating to the public lands. Section 61 reads:

"It shall be lawful for the Chief of the Bureau of Public Lands, whenever in the opinion of the Chief Executive the public interests shall require it, to cause to be filed in the Court of Land Registration, through the Attorney-General, a petition against the holder, claimant, possessor, or occupant of any land in the Philippine Islands who shall not have voluntarily come in under the provisions of this chapter or the Land Registration Act, stating in substance that the title of such holder, claimant, possessor, or occupant is open to question, or stating in substance that the boundaries of any such land which has not been brought into court as aforesaid are open to question, and praying that the title to any such land or the boundaries thereof or the right to occupancy thereof be settled and adjudicated. Such petition shall contain all the data essential to furnish a full notice thereof to the occupants of such land and to all persons who may claim an adverse interest therein, and shall be accompanied by a plan of the land in question. The court shall cause service of notice to be made as in order cases, and shall proceed to hear, try, and determine the questions stated in such petition or arising in the matter, and settle and determine the ownership of the land and cause certificate of title to be issued therefor, as in other cases filed under this chapter."

Of the italicized words, we note first the expression "any land in the Philippine Islands." Taken alone, it cannot be said to relate exclusively to public lands any more than it could be said to relate exclusively to private lands. Taken alone, it must be held to include both. This interpretation of the phrase receives further confirmation from the fact that it must be land whose holder, claimant, possessor, or occupant "shall not have voluntarily come in under the provisions of this chapter or the Land Registration Act." Assuming without conceding that chapter 6 of the Public Land Act is devoted entirely to public lands, nothing can be more certain than that the Land Registration Act (No. 496) provides for the voluntary registration of public lands. There can only be in the Philippine Islands public or private lands. Unless the reference to those who do not come in willingly under the Land Registration Act is surplusage, section 61 refers to privately owned land as well as public land. Whether we consider the phrase "any land in the Philippine Islands" by itself or with the descriptive phrases "under the provisions of this chapter or the Land Registration Act" the argument that chapter 6 of Act No. 926 and, specifically, section 61, does not refer to privately owned lands, falls flat in this view of the matter. We therefore conclude that section 61 applied to all land in the Philippine Islands, whether public or private.

Now, what was the occasion for the enactment of the Cadastral Act (No. 2259)? The inference sought to be drawn is that the necessity of providing a method for requiring the compulsory registration of private lands is what induced its passage. But there is no language in the Act that can make it apply exclusively to private property. The first section begins with language almost identical with the first lines of section 61 of Act No. 926, quoted supra: "Whenever, in the opinion of the Governor-General, the public interests require that the titles to any lands be settled and adjudicated, upon the order of the Governor-General, the Director of Lands or the private surveyor named by the landowners, if the Director of Lands approves, shall make a survey and plan of such lands." Here we have the same phrase "any lands" as is contained in section 61. But the new Act outlines a very comprehensive

procedure to be followed in such proceeding. Some of its important features are: a cooperative survey of the entire tract affected by the proceedings and the proportional distribution of the cost, three-tenths of which is borne by the central and local governments, the remainder being equitably distributed among the property owners, who may have five years within which to pay the same, and held to be a tax lien upon the land. While a joint survey may be impliedly authorized under section 61, nothing is said as to the distribution of the costs, and no method is provided for their collection. The Cadastral Act requires due notice of the time a survey is to be commenced; requires all persons interested to give the surveyor any information they can concerning boundary lines, and makes it a misdemeanor to decline to give such information upon request, or to obstruct the surveyor in his work; requires the plan to be prepared with uniform instructions to be issued by the Director of Lands, and provides that the various parcels shall be designated on the plans by consecutive numbers or, in the case of cities and towns, by block and lot numbers; requires appearance and answer within certain specific limits after service of notice of the filing of the petition; provides in detail for specific and general notice as well as posting of notice in the municipal building, both of the intended survey and of the filing of the petition by the Director of Lands; prescribes certain information which every answer to the petition must contain; provides that a person appointed by the Government shall assist claimants in preparing their answers without fees; permits a new trial or an appeal to the Supreme Court as to some of the parcels without disturbing the judgment of the court as to the remainder; taxes registration fees in accordance with a sliding scale of property values; and makes provision for the partition of property held pro indiviso while the proceedings are pending. Even if one or two of these features of the new Act might be deemed by implication to be contained in section 61 of Act No. 926, it is clear that the new Act solves many questions and difficulties arising under the old, as well as conferring benefits upon the property owners in the affected areas not enjoyed under section 61 of the Public Land Act.

Hence, it is much more reasonable to suppose that Act No. 2259 was enacted, not to fill a void, but to remedy the shortcomings of existing legislation on the same subject. The fact that the new Act does not expressly state that it amends or repeals section 61 of Act 926 does not necessarily rebut this conclusion. If reference be made to the reports, scores of cases will be found where legislatures have substituted for inadequate or imperfect statutes later ones overcoming the difficulties and shortcomings of the former without reference to them. We have in mind the road laws of Arkansas and New York, which were wholly inadequate for the regulation of motor vehicles which have so rapidly increased in numbers and speed within the past few years. In both States the legislature enacted a brand-new motor vehicle law without reference to the road law. It was held by the high courts of both States that the road law must be considered repealed so far as motor vehicles were concerned. (*Helena vs. Dunlap*, 102 Ark., 131; *City of Buffalo vs. Lewis*, 192 N. Y., 193.) In *Holmes vs. Mason*, (80 Neb., 448), it was said: "The act in question is a special statute covering the whole subject of homestead, and is complete in itself. It takes that special subject out of the provisions of the general statute of descent without amending that statute, and according to our former decisions on this point is not unconstitutional."

An act relating to drainage was held to have repealed a prior act providing that public drains within cities and towns should be maintained "by such authority or town" in *Milligan vs. Arnold* (50 Ind. App., 559). The court said: "Having determined that the act now under consideration fully includes section 10, supra (other than the provision apparently intended to be omitted), and adds new provisions and provides certain additional penalties, the present question for decision is controlled by the well-settled law 'that when a new statute was intended to furnish the exclusive rule on a certain subject, it repeals by implication the old law on the same subject, or when a new statute covers the whole subject-matter of an old one, and adds new provisions and makes changes, and where such new law, whether it be in the form of an amendment or otherwise, is evidently intended to be a revision of the old, it repeals the old law by implication'" (*Findling vs. Foster*, 170 Ind., 325.)

In *Thornton vs. State* (5 Ga. App., 397), a revision of the banking law was under consideration. The court said:

"Where the later of two acts covers the whole subject matter of the earlier one, not purporting to amend it, and plainly shows that it was intended to be a substitute for the early act, such later act will operate as a repeal of the earlier one, though the two are not repugnant."

The interpretation placed upon statutes by the executive department is often of great assistance in determining the intention of the legislature. This is especially true under our own Government, where the executive heads of the various Departments are also members of the Upper House of the Legislature. The Secretary of the Interior, in his annual report for the fiscal year 1910, p. 69, said: "The Director of Lands has elaborated a plan for compulsory registration of private holdings in entire districts under the provisions of Section 61 of the Public Land Act."

In the Governor-General's annual report for the fiscal year 1912, it is said: "Although fair results have been obtained in the general cadastral surveys in Cebu and Pangasinan, made under the provisions of section 61 of the Public Land Act, No. 926, the survey and settlement of titles in Zamboanga, under the General Cadastral Survey Law, Act No. 2075, passed by the Commission in 1911, has proved beyond a shadow of a doubt the wisdom of this Act."

In the annual report of the Secretary of the Interior for the same year, we find the following: "Hearings have been had in three cases of compulsory registration brought under the provisions of section 61 of the Public Land Act. * * * While the cases thus far adjudicated have been very successful and the results are highly gratifying the provisions of section 61 are neither complete nor comprehensive, and it is a matter of very great importance to property holders that a cadastral survey act identical with, or similar to, that submitted to the Legislature at its last session should be passed."

In the Governor-General's message to the Third Philippine Legislature, October 16, 1912, (Commission Journal, vol. 6, p. 33) it is said: "I have the honor to recommend the passage of a law providing for a method of general cadastral surveys. Such a law is of vital importance to the welfare and prosperity of the Islands. Although fair results have been obtained in the general cadastral surveys in Cebu and Pangasinan under the provisions of the Public Land Act, and although by Act No. 496 a method of settling titles guaranteed by the Government has been provided, the costs of registering land and the delays caused by faulty surveys have been so great that land titles are still generally unsettled and but a minimum of the benefits of the torrens system has been received."

Act No. 2334 provides that certain provisions of the Cadastral Act shall apply to the compulsory registration proceedings theretofore instituted under the provisions of section 61 of Act No. 926, of which this case is one. This act is what is called a curative statute. It does not pretend to confer jurisdiction upon the courts to entertain compulsory registration proceedings. On the contrary, it assumes jurisdiction to have been granted under section 61 of Act No. 926 and merely provides that certain incidental matters arising in those proceedings shall be settled in accordance with the provisions of the Cadastral Act. A legislature "has no power to make a decree or judgment rendered without jurisdiction a valid and binding decree or judgment." (2 Lewis' Southerland Stat. Const., sec. 676, citing *Willis vs. Hodson*, 79 Md., 327; 29 Atl., 604.) But the legislature has power to pass healing Acts which do not impair the obligation of contracts nor interfere with vested rights. They are remedial by curing defects and adding to the means of enforcing existing obligations. The rule in regard to curative statutes is that if the thing omitted or failed to be done, and which constitutes the defect sought to be removed or made harmless, is something which the legislature might have dispensed with by a previous statute, it may do so by a subsequent one. If the irregularity consists in doing some act, or doing it in the mode which the legislature might have made immaterial by a prior law, it may do so by a subsequent one. These rules are supported by numerous cases. (2 Lewis' Southerland Stat. Const., sec. 675.) We conclude that section 61 of Act No. 926 conferred jurisdiction upon the land court to entertain compulsory registration proceedings against private property owners.

It is urged that compulsory registration is unconstitutional. But this is no longer an open question. So far as this

court is concerned, the constitutionality of such statutes has been affirmed in *Jose vs. Commander of Philippine Squadron* (16 Phil. Rep., 62).

As an argument against the validity a judgment under section No. 61, it is said that the Land Court has no power to enforce its judgment as to the costs of the proceedings, saying that nowhere in the Land Registration Act (No. 496) is there authority granted for that purpose. This objection is now best answered, so far as this case is concerned, by section 18 of the Cadastral Act, made applicable to this case by Act No. 2334, which provides that the costs taxed against each parcel shall be considered as a special tax assessment and shall constitute a first lien upon the land.

It is further objected that section 61 requires five requisites to a valid proceeding thereunder, to wit: First, that in the opinion of the Governor-General the public interests demand such action; second, that the action be directed against the holder, possessor, or occupier of land in the Philippine Islands; third, that such person shall not have voluntarily come in under the provisions of the Land Registration Act; fourth, that the title of such occupant is open to question; and fifth, that the boundaries of such land are open to question. The record establishes all the first four of these requisites. We do not understand that both title and boundaries to a given parcel need be in doubt in order to institute compulsory registration proceedings. The section states it in the alternative: when the title is open to question or the boundaries are open to question. Much depends upon the Governor-General. It is for him to decide whether the public interests require the institution of such a proceeding. The public interests may require the compulsory registration of all property within a given area when some particular parcel is endowed with a fairly good title and definite boundaries. We take it that when the Governor-General has certified that the public interests demand the prosecution of compulsory registration proceedings, the allegations of the Director of Lands in his petition to the court are mainly for the purpose of requiring all claimants to present their proofs of ownership in an orderly and methodical manner.

Upon the merits we must affirm the judgment of the trial court. The fact that both lots are bounded on all sides by public streets; that no portion of either is included within the wall surrounding the church property; that one of the lots has always served as a public plaza, there being no other in the poblacion; that the other has been the site of the public school since 1877, at least; that there is no indication of the church ever having administered the property, while there is testimony showing that it has been administered by the municipality; all these facts are well established by the testimony of record. The fact that portions of these lots were used at times for the forming of religious processions is not sufficient to justify an award of the land to the appellant in view of the evidence in favor of the municipality.

For the foregoing reasons, the judgment appealed from is affirmed, with costs of this appeal against the appellant. So ordered.

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

Judgment affirmed.

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