

3 Phil. 681

[G.R. No. 1529. April 13, 1904]

ESTEFANIA VILLAR, PLAINTIFF AND APPELLANT, VS. MUNICIPAL BOARD OF MANILA, DEFENDANT AND APPELLEE.

D E C I S I O N

MAPA, J.:

After the plaintiff had rested, and before the introduction of evidence on behalf of the defendant, the courts on motion of the defendant, dismissed the complaint with the costs against the plaintiff.

As a ground for this decision the court gives the following reasons:

” The plaintiff in this case relied upon the length of the *braza realenga*, and the burden of proof was upon her to establish its length. Several lengths were given to the

brasa realenga by proofs respectively equally strong, and so the plaintiff did not establish the length of the *braza realenga* to be as maintained by her. *This being the only issue* and the court being still unadvised as to the length of the *braza realenga*,

nothing has been determined by this case, and the above order shall in no wise prejudice either the plaintiff or the defendant from commencing and prosecuting any action they may deem proper to commence or prosecute involving the property in question in this case, the right to further litigate being expressly reserved to each party.”

This reason is in our judgment erroneous. The length of the *braza realenga* was one of the issues in the case, but not the only issue, and certainly not the most important. Another issue of equal importance at

least is that which concerns the possession of more than fifty years, alleged by the plaintiff as one of the grounds of her action. Such possession, if accompanied by the requisites prescribed by the law, might give title by prescription, and this is an aspect of the case which must necessarily be considered in determining it.

The mere fact that from the year 1861 there was an official *braza* of a certain length established by the city council of Manila is not conclusive proof that as a matter of fact another class of *braza* of a different length from the official measure was not in fact used in contracts and transactions between private individuals. It is true that in all the documents presented by the plaintiff mention is made of the *braza realenga*, and not of the *braza de Burgos*, which is the one recognized as official by the resolution of the city council of Manila above referred to. The fact that the length of the *braza realenga* has not always been uniform according to its different denominations is not in itself a sufficient reason for the dismissal of the complaint, inasmuch as in the deed of September 1. 1897 (bill of exceptions, page 18), the length of the *braza realenga* employed as a measure of the lot sold by the parties executing that instrument is specifically stated. It is said in that instrument that six *brazas realengas* are equivalent to *seventeen and one-fourth Burgos yards, equivalent to fourteen meters and forty-two centimeters*. This equivalent might serve as a basis for determining the true dimensions of the lot acquired by the plaintiff.

The most important question consists in determining whether the strip of land which is the object of the complaint is or is not included within the limits of the lot mentioned in the documents appearing on pages 11 to 21 of the bill of exceptions, and if it has really been possessed by the plaintiff and her ancestors for the last fifty years.

It can not be stated absolutely that the plaintiff has not proved her allegations. She has presented evidence which is well worthy of a serious consideration, the result of which might not in the end be wholly unfavorable. For these reasons the court should have given the defendant an opportunity to present such evidence as it might have

desired to introduce, in order that the case might be decided after a full hearing. The omission of this proceeding prevents us from deciding the case on the merits.

For the reasons stated the judgment below is reversed and the case returned to the trial court for a continuation of the trial, and to give the defendant an opportunity to present such evidence as it may deem proper for the defense of its rights. So ordered.

Arellano, C.J., Torres, Cooper, McDonough, and Johnson, JJ., concur.

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