

96 Phil. 564

[G.R. No. L-4370. February 25, 1955]

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ARSENIO CASTRO, ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

JUGO, J.:

This is an appeal from the judgment of the Court of First Instance of Bulacan, declaring that the plaintiff-appellee has the right to expropriate the land described in the complaint belonging to the defendants-appellants, for the purpose of reselling to the tenants, and awarding to the defendants-appellants the sum of P66,030 as value of the land and the sum of P3,700 per annum as damages from July 19, 1947, up to the time the first mentioned sum is paid.

The land in question is situated in barrio Coloong, Polo, Bulacan, with an area of 486,912 square meters or about 48 hectares. Twenty-six hectares of the land consist of fish ponds or *pesqueria*, and twenty-two hectares are riceland. This property formerly belonged to the San Juan de Dios Hospital and was bought by the defendant brothers Arsenio Castro and Tomas Castro.

The fish ponds cannot be practically divided among the four hundred persons to be worked by each participant, as required by Commonwealth Act No. 539. It is said that the fish ponds are operated by a cooperative company composed of the tenants. This would be against the provisions of Commonwealth Act No. 539, which require that each should have his own property to be cultivated by himself.

The defendants appellants in their *Mocion Suplementaria de Reconsideracion* expressed their conformity to the expropriation of the twenty-two hectares of ricelands in the following words:

“Es un hecho de conocimiento del Juzgado que la propiedad objeto de la demands de expropiacion se compone de los partes, una parte con una extension de 26 hectareas es una pesqueria hecha y la otra parte con una extension de 22 hectareas la forma la porcion residencial (homesite) y la porcion cultivada de productos agricolas (farm). Interpretando fielmente el espiritu de la ley 533 sometemos que la porcion de la propiedad destinada para residenciales con la porcion cultivada de productos agricolas (homesite and farm) es la propiedad que mas adecuadamente sirve los fines y propositos de la ley de subdividir en pequenos lotes, cosa que no puede hacerse en cuanto a la pesqueria por sus naturales inconveniencias y su efecto destructivo”

The appellee in its memorandum argues that, inasmuch as the order of the court denying the motion of the defendants for the dismissal of the case was not appealed on time, the decision appealed from, in so far as it declares the right of the plaintiff to expropriate, had become final before the appeal was made. It should be noted that the appellants filed a notice of appeal and the record on appeal within the regular period from the order of the court denying the motion for dismissal, but the appellee opposed the approval of said record on appeal and the court sustained the opposition on the ground that the appeal was premature. Now, however, said appellee asserts that the defendants should have appealed from said order which was interlocutory. The appeal from the final decision of the lower court was made on time.

In view of the foregoing, the decision appealed from is modified by denying the expropriation of the twenty- six hectares of fish ponds and ordering the expropriation of the twenty-two hectares of ricelands. This case is ordered remanded to the court of origin for further proceedings in accordance with this decision, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

Judgment modified.

Date created: October 09, 2014