100 Phil. 485

[G.R. No. L-8698. December 14, 1956]

LUCIO JAVILLONAR, PETITIONER AND APPELLEE, VS. THE NATIONAL PLANNING COMMISSION, RESPONDENT AND APPELLANT.

D E C I S I O N

BAUTISTA ANGELO, J.:

On January 30, 1947, the Republic of the Philippines instituted expropriation proceedings before the court of first Instance of Manila to expropriate four parcels of land situated in Tondo, Manila, known as "Terrenos de la calle Sande", containing an area of 9,601,70 square meters, and belonging to the Philippine Realty Company (Civil Case No. 1646). The Republic, through the Director of Lands, paid to said company the amount of P124,579.73 as the purchase price of the land. The expropriation was undertaken at the instance of about fifty persons, with their families, who had occupied for sometime portions of the land. One of these occupants is Lucio Javillonar.

It appears that these occupants had been tenants of portions of the land for nearly thirty-five years and had built thereon houses of strong materials and had hoped that they would eventually own the portions occupied by them. The land had been subdivided by its former owner, the Philippine Realty Company, several years prior to its expropriation and the subdivision plan was approved by the Director of Lands, However, the lots as subdivided and leased by their prior owner are actually much less in area than the 180 square meters minimum requirement imposed by the National Urban Planning Commission. The lot on which Javillonar had built his house has an area of only 118.22 square meters. So when on January 8, 1954 the Director of Lands submitted to said Commission the subdivision plan as prepared by the former owner taking into account the area occupied by each tenant, the same was disapproved on the ground that it does not conform with said minimum requirement. To compel said Commission to exempt from said minimum requirement the lot on which he built his house, Javillonar filed the present petition for mandamus before the Court of First Instance of Manila.

Respondent, answering the petition, tried to justify its refusal to approve the subdivision plan submitted to it by the Director of Lands by contending that the same does not conform with the rules and regulations issued by it in pursuance of the provisions of Executive Order No. 367 (section 3), Executive Order No. 98 (section 2, b-2 and section 3), and Republic Act No. 333 [section 8, subsection 4(*b*), (*c*) and (*e*)]. Respondent contends that said subdivision regulations are just and reasonable, their object being to promote the general welfare of the community. Consequently, it prays that the petition be dismissed.

After trial, the court rendered judgment granting the relief prayed for. More specifically, it ordered respondent to exempt petitioner from the 180 square meters requirement and to respect the subdivision plan prepared and submitted by the Philippine Realty Company in so far as the right of each bona fide tenant to occupy the lot as signed to him in the subdivision is concerned. From this decision, respondent took the present appeal.

There is no question that under Executive Order No, 98 issued by the President of the Philippines on March 11, 1946, the National Urban Planning Commission is empowered to prepare subdivision regulations governing the subdivision of lands in any urban area, or part thereof, in the Philippines, and that pursuant to that power, it approved the "Subdivision Regulations", marked Exhibit 1, which provides, among other things, that "Lots for residential use shall be at least twelve meters wide at the front building .line and shall contain not less than 180 square meters of land" [Section 13(*b*)]. It is also not disputed that these regulations were approved by the Municipal Board of the City of Manila as required by Executive Order No. 98 in order that they may have the force of law. It is likewise admitted that the lot in question, presently occupied by petitioner Javillonar, as well as the lots occupied by the other 49 occupants who are similarly situated, belong to an urban area which comes under the jurisdiction of the National Urban Planning Commission. The question now to be determined is: Is it fair and reasonable to apply said regulations to the tenants who are presently occupying the land expropriated by the government for their own benefit Considering the area of the portions occupied and the houses they had built thereon long before its expropriation? We should not lose sight of the fact that these tenants, including the petitioner, had occupied their lots for many years and had been bona fide tenants of their former owner and it is at their instance that the land was expropriated by the government.

They were tenants of the land much prior to the adoption of the Subdivision Regulations by the National Urban Planning Commission and their approval by the Municipal Board of the

City of Manila. To require them now to follow the minimum requirement as to.area as required by the regulations would be to thwart and set at naught the very purpose for which the expropriation was made, for it will be practically impossible for them, considering their limited means and their previous investments, to comply with said requirement. And knowing this difficulty and the sad plight into which the tenants would be placed if the minimum requirement is applied to them, the Director of Lands has taken their side arid joined them in their plea to secure the approval of the subdivision plan prepared by the previous owner of the property. This apprehension of said official is well reflected in the indorsement he sent to the National Urban Planning Commission wherein he pleaded that it reconsider its stand and give its approval to the subdivision plan laid down by the former onwer of the land. Thus, in said indorsement, the Director of Lands made the following interesting observation:

> "It is important to observe that the purpose of Commonwealth Act No. 539 and other similar acts in implementing the principles of social justice embodied in the constitution (section 5, Article II Phil, const.) is to sell to a person the land on which his house stands, for by such sale, the standing feud or differences between the tenants and their landlord which may develop into more serious proportion, could be peacefully terminated. If the 180 square meters requirement for every lot is followed in this case, many persons will be deprived of a place to live on and thus the primary purpose of the government in acquiring estates for residential purposes in order to afford an opportunity for landless persons to purchase and own the very parcels of land where their houses are erected, will be frustrated. Likewise, the law (C. Act No. 539) enacted by the law-making body of the country to help the landless and allay their fear of being driven away from the land they occupy, will be rendered nugatory."

While we agree with the Solicitor General that the regulations were adopted "with the end in view of promoting the safety and security of the people against fire or other conditions by securing an easy and unimpeded approach to all buildings of the fire engines and other five fighting appliances, of ambulances, refuse wagons and other appliances used by the sanitary department of the government, by fire and health inspectors generally and by other persons and employees of the Bureau of Health", we believe however that their application and enforcement should be done in such a way as not to work hardship and

cause injustice to the persons living in the areas affected. Their application should not be done with undue rigidity but with due regard to the equities of the persons affected. The same purpose can be accomplished with the same force and effect even if the persons affected be given a lesser area provided only that their interest is not jeopardized. In other words, the application of said regulations should be done with fairness, considering their interest and their present situation.

But there is one legal aspect which justifies the stand taken by the tenants and speaks well of the attitude adopted by the Director of Lands and that is the enactment of Republic Act No. 1162 on June 18, 1954, or about the time the government expropriated the subdivision in question. Considering that said Act refers precisely to lands that are expropriated by the government for resale to *bona fide* tenants or occupants, the same must undoubtedly reflect the intent of Congress as regards the manner said lands should be apportioned to the persons concerned. And we are just wondering why notwithstanding this manifest policy of our legislative body the National Urban Planning Commission chose to disregard it and turned a deaf ear to the plea of petitioner and his other companions in the property. We refer to section 3 of the aforesaid Act which provides as follows:

> "SEC. 3. The landed estates or haciendas expropriated by virtue of this Act shall be subdivided into small lots none of which shall exceed one hundred and fifty square meters in area, to be sold at cost to the tenants, or occupants, of said lots, and to other individuals, in the order mentioned: *Provided*, That if the tenant of any given lot is not able to purchase said lot, he shall be given a lease from month to month of said lot until such time that he is able to purchase the same: *Provided, further,* That in the event of lease, the rentals that may be charged by the Government shall not exceed twelve per cent *per annum* of the assessed valuation of the property leased."

Note that said section refers to estates expropriated by the government to be subdivided into small lots and it is therein provided that each lot shall *not exceed* 150 square meters in area. In other words, as long as the lot to be allotted to each tenant does not exceed 150 square meters in area, the allotment may be allowed even if it contains a lesser area depending upon the interest and situation of the tenant affected. Undoubtedly, Congress has foreseen a situation similar to what the petitioner and his companions actually find themselves, and in order to ease up their situation and facilitate an equitable division of

their landholding, this reasonable and practical provision must have been adopted. No clearer mandate as to how the lands expropriated should be subdivided can be found. This mandate gives the key to the solution of the present controversy. It clearly justifies the stand taken by the Director of Lands who made a common cause with petitioner and his companions.

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J. B. L., Endencia, and *Felix JJ.*, concur.

Date created: October 13, 2014