

IN THE MATTER OF THE PETITION FOR DECLARATORY JUDGMENT REGARDING THE VALIDITY OF ORDINANCE NO. 386 OF THE CITY OF BAGUIO, BAGUIO CITIZENS ACTION INC., AND JUNIOR CHAMBER OF BAGU...

G.R. No. L-27247. April 20, 1983

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/03bd712ad39c/>

DE CASTRO, J.:

In this petition for declaratory relief originally filed in the Court of First Instance of Baguio, Branch II, what is involved is the validity of Ordinance 386 passed by the City Council of Baguio City which took effect on February 23, 1967, quoted together with the explanatory note, as follows:

"ORDINANCE 386

"AN ORDINANCE CONSIDERING ALL SQUATTERS OF PUBLIC LAND, OTHER THAN THOSE EARMARKED FOR PUBLIC USE IN THE CITY OF BAGUIO WHO ARE DULY REGISTERED AS SUCH AT THE TIME OF THE PROMULGATION OF THIS ORDINANCE AS BONAFIDE OCCUPANTS OF THEIR RESPECTIVE LOTS AND WHICH SHALL HEREAFTER BE EMBRACED AS A CITY GOVERNMENT HOUSING PROJECT AND PROVIDING FOR OTHER PURPOSES."

"Upon strong recommendation of the Vice-Mayor and Presiding Officer, on Motion of all the Councilors, seconded by the same, be it ordained by the City Council assembled:

"Section 1. - All public lands within Baguio townsite which are occupied by squatters who are duly registered as such at the time of the promulgation of this Ordinance, such public lands not designated by city and national authorities for public use, shall be considered as embraced and comprising a City Government Housing Project; PROVIDED, HOWEVER, That areas covered by Executive Orders or Presidential Proclamations but the city had made official representation for the lifting of such orders or proclamation shall be deemed to be part of the Baguio Townsite for the purposes of this ordinance;

"Section 2. - Building permits shall have been deemed issued to all squatters as contemplated by this Ordinance, giving such squatters five years from the approval of this Ordinance to satisfactorily comply with city building specifications and payment of the corresponding city building permit fees;

"Section 3. - All cases pending in court against squatters be dropped without prejudice to the full prosecution of all subsequent violations in relation to the provisions of existing city ordinances and/or resolutions;

"Section 4. - All squatters be given all the necessary and needed protection of the City Government against the stringent provisions of the Public Land Act, particularly on public bidding, in that the lots occupied by said squatters be awarded to them by direct sale through Presidential Proclamation;

"Section 5. - The City Government shall not be interested in making financial profit out of the project and that the appraisal and evaluation of the said lots shall be made at minimum cost per square meters, the total cost of the lots made payable within the period of ten years;

"Section 6. - The minimum lot area requirements shall be disregarded in cases where it could not be implemented due to existing congestion of houses, and that, if necessary, areas applied for under this ordinance shall be reduced to that which is practical under the circumstances; PROVIDED, HOWEVER, That squatters in congested areas shall be given preference in the transfer to resettlement areas or government housing projects earmarked as such under the provisions of this ordinance, if and when it becomes necessary to ease congestion or when their lots shall be traversed by the laying of roads or are needed for public use;

"Section 7. - The amount of P20,000.00 or so much as is necessary, for the lot survey of each squatter's lot be appropriated, such survey of which shall be conducted by licensed private surveyors through public biddings; PROVIDED, That, said expenses for survey shall be included in the overall cost of each lot;

"Section 8. - The three-man control committed for the Quirino-Magsaysay housing project which was previously created under City Ordinance No. 344, shall exercise administration and supervision of the city government housing projects created under this Ordinance shall, furthermore, be entrusted with the duty of: (1) Consolidating a list of all city squatters who shall be benefitted in contemplation and under the provisions of this Ordinance; (2) To assist and help the squatters in the preparation of all the necessary and required paper work and relative items in connection with their application over their respective lots; (3) To seek and locate other areas within the Baguio Townsite conveniently situated and which will be earmarked as subsequent housing projects of the city for landless bonafide city residents; and (4) To carry out and implement the provisions of this Ordinance without the least possible delay."

EXPLANATORY NOTE

"This ordinance is primarily designed to extend a helping hand to the numerous landless city residents and the so-called 'Squatters' within the Baguio Townsite in their desire to acquire residential lots which they may rightly call their own.

"The reported people who have violated the City's building ordinances were not so guarded by any criminal perversity, but were given to it more by circumstances of necessity and that they are, therefore, entitled to a more human treatment, more of understanding and more of pity rather than be herded before the courts, likened to hardened criminals and deliberate violators of our laws and ordinances."

"PRESENT AND VOTING:

Hon. Norberto de Guzman - Vice Mayor and Presiding Off.

Hon. Gaudencio Floresca - Councilor

Hon. Jose S. Florendo - Councilor

Hon. Francisco G. Mayo - Councilor

Hon. Braulio D. Yaranon - Councilor and

Hon. Sinforoso Fañgonil - Councilor"

The petition for declaratory relief filed with the Court of First Instance of Baguio, Branch II, prays for a judgment declaring the Ordinance as invalid and illegal ab initio. The respondents-appellees, the City Council and the City Mayor, filed motions to dismiss the petition which were denied. Nonetheless, in the decision thereafter rendered, the petition was dismissed on the grounds that: 1) another court, the Court of First Instance of Baguio, Branch I, had declared the Ordinance valid in a criminal case filed against the squatters for illegal construction, and Branch II of the same court cannot, in a declaratory proceeding, review and determine the validity of said judgment pursuant to the policy of judicial respect and stability; 2) those who come within the protection of the ordinance have not been made parties to the suit in accordance with Section 2 of Rule 64 and it has been held that the

non-joinder of such parties is a jurisdictional defect; and 3) the court is clothed with discretion to refuse to make any declaration where the declaration is not necessary and proper at the time under all circumstances, e.g. where the declaration would be of no practical help in ending the controversy or would not stabilize the disputed legal relation, citing Section 5 of Rule 64; ICJS 1033-1034; 16 AM. JUR 287-289; *Hoskyns vs. National City Bank of New York*, 85 Phil. 201.

Hence, the instant appeal which was perfected in accordance with the provisions of Rule 42, before the approval of Republic Act No. 5440 on September 9, 1968.

1. The case before the Court of First Instance of Baguio, Branch I, dealt with the criminal liability of the accused for constructing their houses without obtaining building permits, contrary to Section 47 in relation to Section 52 of the Revised Ordinances of Baguio, which act the said court considered as pardoned by Section 2 of Ordinance 386. The court in said case upheld the power of the Municipal Council to legalize the acts punished by the aforesaid provisions of the Revised Ordinances of Baguio, stating that the Municipal Council is the policy determining body of Baguio City and therefore it can amend, repeal, alter or modify its own laws as it did when it enacted Ordinance 386. In deciding the case, the first branch of the court a quo did not declare the whole Ordinance valid. This is clear when it stated that "had the issue been the legalization of illegal occupation of public land, covered by Republic Act No. 947, . . . the Ordinance in question should have been ultra vires and unconstitutional." [1] Said court merely confined itself to Sections 2 and 3 of Ordinance 386. It did not make any definite pronouncement whether or not the City Council has the power to legalize the illegal occupation of public land which is the issue in the instant case. It is noteworthy that the court, in passing upon the validity of the aforesaid sections, was apparently guided by the rule that where part of a statute is void as repugnant to the organic law, while another part is valid, the valid portion, if separable from the invalid may stand and be enforced. Contrary to what was said in the decision under review, the second branch of the court a quo was not called upon to determine the validity of the judgment of the first branch.

2. The non-inclusion of the squatters mentioned in the Ordinance in question as party defendants in this case cannot defeat the jurisdiction of the Court of First Instance of Baguio. There is nothing in Section 2 of Rule 64 of the Rules of Court which says that the non-joinder of persons who have or claim any interest which would be affected by the declaration is a jurisdictional defect. Said section merely states that "All persons shall be made parties who have or claim any interest which would be affected by the declaration; and no declaration shall, except or otherwise provided in these rules, prejudice the rights of persons not parties to the action." This section contemplates a situation where there are other persons who would be affected by the declaration, but were not impleaded as necessary parties, in which case the declaration shall not prejudice them. If at all, the case may be dismissed not on the ground of lack of jurisdiction but for the reason stated in Section 5 of the same Rule stating that "the Court may refuse to exercise the power to declare rights and to construe instruments in any case where a decision would not terminate the uncertainty or controversy which gave rise to the action, or any case where the declaration or construction is not necessary and proper at the time under all circumstances."

It must be noted that the reason for the law requiring the joinder of all necessary parties is that failure to do so would deprive the declaration of the final and pacifying function the action for declaratory relief is calculated to subserve, as they would not be bound by the declaration and may raise the identical issue. [2] In the case at bar, although it is true that any declaration by the court would affect the squatters, the latter are not necessary parties because the question involved is the power of the Municipal Council to enact the Ordinances in question. Whether or not they are impleaded, any determination of the controversy would be binding upon the squatters.

A different situation obtains in the case of *Degala v. Reyes* [3] cited in the decision under review. The *Degala* case involves the validity of the trust created in the will of the testator. In the said case, the Roman Catholic Church

which was a necessary party, being the one which would be most vitally affected by the declaration of the nullity of the will was not brought in as party. The Court therefore, refused to make any declaratory judgment on ground of jurisdictional defect, for there can be no final judgment that could be rendered and the Roman Catholic Church not being bound by such judgment might raise the identical issue, making therefore the declaration a mere exercise in futility.

This is not true in the instant case. A declaration on the nullity of the ordinance, would give the squatters no right which they are entitled to protect. The party most interested to sustain and defend the legality of the Ordinance is the body that passed it, the City Council, and together with the City Mayor, is already a party in these proceedings.

3. The Ordinance in question is a patent nullity. It considered all squatters of public land in the City of Baguio as bona-fide occupants of their respective lots. As we have stated in *City of Manila v. Garcia*,^[4] et al.:

"Squatting is unlawful and no amount of acquiescence on the part of the city officials will elevate it into a lawful act. In principle, a compound of illegal entry and official permit to stay is obnoxious to our concept of proper official norm of conduct. Because, such permit does not serve social justice; it fosters moral decadence. It does not promote public welfare; it abets disrespect for the law. It has its roots in vice; so it is an infected bargain. Official approval of squatting should not, therefore, be permitted to obtain in this country where there is an orderly form of government."

In the same case, squatting was characterized as a widespread vice and a blight, Thus:

"Since the last global war, squatting on another's property in this country has become a widespread vice. It was and is a blight. Squatter's areas pose problems of health, sanitation. They are breeding places for crime. They constitute proof that respect for the law and the rights of others, even those of the government, are being flouted. Knowingly, squatters have embarked on the pernicious act of occupying property whenever and wherever convenient to their interests without as much as leave, and even against the will, of the owner. They are emboldened seemingly because of their belief that they could violate the law with impunity. The pugnaciousness of some of them has tied up the hands of legitimate owners. The latter are thus prevented from recovering possession by peaceful means. Government lands have not been spared by them. They know, of course, that intrusion into property, government or private, is wrong. But then, the wheels of justice grind slow, mainly because of lawyers who, by means, fair or foul, are quite often successful in procuring delay of the day of reckoning. Rampancy of forcible entry into government lands particularly, is abetted by the apathy of some public officials to enforce the government's rights. Obstinacy of these squatters is difficult to explain unless it is spawned by official tolerance, if not outright encouragement or protection. Said squatters have become insensible to the difference between right and wrong. To them, violation of law means nothing. With the result that squatters still exists, much to the detriment of public interest. It is high time that, in this aspect, sanity and the rule of law be restored. It is in this environment that we look into the validity of the permits granted defendants herein."

In the above cited case, the land occupied by the squatters belongs to the City of Manila. In the instant case, the land occupied by the squatters are portions of water sheds, reservations, scattered portions of the public domain within the Baguio townsite. Certainly, there is more reason then to void the actions taken by the City of Baguio through the questioned ordinance.

Being unquestionably a public land, no disposition thereof could be made by the City of Baguio without prior legislative authority. It is the fundamental principle that the state possesses plenary power in law to determine who shall be favored recipients of public domain, as well as under what terms such privilege may be granted not excluding the placing of obstacles in the way of exercising what otherwise would be ordinary acts of ownership. And the law has laid in the Director of Lands the power of exclusive control, administration, disposition and

alienation of public land that includes the survey, classification, lease, sale or any other form of concessions or disposition and management of the lands of public domains.[5]

Nor could the enactment of Ordinance 386 be justified by stating that "this Ordinance is primarily designed to extend a helping hand to the numerous landless city residents and the so called squatters within the Baguio townsite in their desire to acquire residential lots which they may rightly call their own and that the reported people who have violated the City's building ordinances were not so guided by any criminal perversity, but were given to it more by circumstances of necessity and that they are, therefore, entitled to a more human treatment, more understanding and more of pity rather than be herded before the courts, likened to hardened criminals and deliberate violators of our laws and ordinances." [6]

Our pronouncement in *Astudillo vs. Board of Directors of PHHC* [7] is relevant to this case. Thus -

"In carrying out its social re-adjustment policies, the government could not simply lay aside moral standards, and aim to favor usurpers, squatters, and intruders, unmindful of the lawful and unlawful origin and character of their occupancy. Such a policy would perpetuate conflicts instead of attaining their just solution. (*Bernardo vs. Bernardo*, 96 Phil. 202, 206.)

"Indeed, the government has enunciated a militant policy against squatters. Thus, Letter of Instruction No. 19 dated October 2, 1972 orders city and district engineers 'to remove all illegal constructions including buildings. . .and those built without permits on public or private property' and providing for the relocation of squatters (68 O.G. 7962. See Letter of Instruction No. 19-A). As noted by Justice Sanchez, since the last global war, squatting on another's property in this country has become a widespread vice. (*City of Manila vs. Garcia*, L-26053, Feb. 21, 1967, 19 SCRA 413, 418)."

WHEREFORE, in view of the foregoing, Ordinance 386 is hereby rendered nullified and without force and effect.

SO ORDERED.

Fernando, C.J., Makasiar, Concepcion Jr., Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Teehankee, J., took no part.

Aquino, J., on leave.

[1] Record on Appeal (Decision of the CFI of Baguio, Branch I in Criminal Case Nos. 2553 to 2690), p. 93.

[2] *Degala v. Reyes*, 87 Phil. 649 citing *Hoskyn's v. National City Bank of New York*, 85 Phil. 201.

[3] *Ibid*, citing 7 C.J.S., 1049.

[4] 19 SCRA 413.

[5] *Francisco v. Rodriguez*, 67 SCRA 212, 217.

[6] Record on Appeal (Explanatory note of ordinance 386 pp. 87-88.

[7] 73 SCRA 15.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.