

ANSELMO CARANDANG, BENJAMIN CARANDANG, ARMANDO CARANDANG, AND ESTERLITA CARANDANG, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES (NATIONAL IRRIGATION ADMINISTRATION), HON. FIDEL ...

G.R. No. L-49052. January 28, 1980

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

Once again, this Court is confronted with the question of whether the constitutional right to procedural due process had been violated. So it was alleged by petitioners in this certiorari and prohibition proceeding. They were the defendants in an expropriation case, the plaintiff, now named one of the respondents, being the Republic of the Philippines. The denial of procedural due process was alleged to have arisen from their not having been given their day in court. They asserted that when they appeared before the respondent Judge on June 7, 1978 at 1:30 o'clock in the afternoon, they were informed that the matter was heard at 9:00 o'clock that morning.[1] As a result an order of default was issued by respondent Judge Fidel P. Purisima. It reads thus: "When this case was called for pre-trial today, as scheduled, Solicitor Felix de Guzman appeared for the government and was ready but neither the defendants nor their counsel appeared, despite due notice. [Wherefore], the defendants are hereby declared as in default and plaintiff is hereby authorized to present evidence ex-parte and thereafter, the case shall be deemed submitted for decision on the basis of the evidence thus presented." [2] There was a motion to lift such order of default, [3] but it was denied. [4]

On the above facts, the claim vigorously pressed was that the petitioners had been deprived of their day in Court. The Republic of the Philippines was required to comment. It did so through Solicitor General Estelito P. Mendoza. [5] The Comment was considered the answer and the case was submitted for decision. It was to be expected that the stress in such pleading would be on the well-settled doctrine that for certiorari to lie, there must either lack of or excess of jurisdiction on the part of an inferior tribunal or that a grave abuse of discretion amounting to jurisdictional infirmity. [6] There is plausibility in the appraisal of Solicitor General Estelito P. Mendoza that on the facts, it cannot be concluded that there was a grave abuse of discretion. Considering, however, that this Court has been quite receptive to the plea that a hearing is of the essence, the cause of justice would be better served if the default order were lifted to enable petitioners to present their evidence.

- No question lies as to this special civil action being allowable even if filed against the Republic of the Philippines, which enjoys sovereign immunity. As clearly pointed out in the petition, the consent to be sued is quite apparent, as the incident which gave rise to this petition was in connection with the complaint filed by respondent Republic itself instituting expropriation proceedings. [7]

- It is equally clear that if it were the beneficiary of an arbitrary actuation on the part of respondent Judge resulting in the denial of the procedural due process, then the remedy sought should be granted. Solicitor General Mendoza correctly made reference to the order setting the case anew for pre-trial, the time indicated was at 9:30 A.M.

instead of 1:30 P.M. Petitioners, for some reason or another, were under the impression that it would at the latter hour when the pre-trial would be held. While they cannot impute blame on respondent Judge, they can seek the protection of due process on the plea of excusable neglect. As pointed out earlier, the cause of justice would be better served if their plea were heeded. Precisely because the power of eminent domain, in the language of the leading case of *Visayan Refining Co. v. Camus*,^[8] "is inseparable from sovereignty being essential to the existence of the State and inherent in government,"^[9] there is all the more reason for according the citizens who might raise a colorable claim of grievance that for expropriation to lie the requirements of procedural due process must be observed. Again, to quote from the opinion of Justice Street in the *Visayan Refining Co.* decision: "Nevertheless, it should be noted that the whole problem of expropriation is resolvable in its ultimate analysis into a constitutional question of due process of law."^[10]

WHEREFORE, the case is remanded to the lower court to enable petitioners to be heard at the pre-trial on a date to be duly set by respondent Judge. No costs.

Barredo, Antonio, Aquino, Concepcion, Jr., and Abad Santos, JJ., concur.

[1] Petition, par. 8.

[2] *Ibid*, Annex H.

[3] *Ibid*, Annex I.

[4] *Ibid*, Annex J.

[5] He was assisted by Assistant Solicitor General Octavio R. Ramirez and Solicitor Felix M. de Guzman.

[6] Cf. *People v. Vallarta*, L-32728, June 30, 1977, 77 SCRA 476. The opinion cited 30 cases starting from *In re Prautch*, 1 Phil. 132 (1902).

[7] Cf. *Santiago v. Government of the Republic of the Philippines*, L-48214, December 19, 1978.

[8] 40 Phil. 550 (1919).

[9] *Ibid*. 558.

[10] *Ibid*, 560.

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