

MUNICIPALITY OF SAN JUAN, PLAINTIFF-APPELLEE, VS. NATIONAL WATERWORKS AND SEWERAGE AUTHORITY, DEFENDANT-APPELLANT.

G.R. No. L-22047. August 31, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Direct appeal, taken by the National Waterworks and Sewerage Authority - hereinafter referred to as NAWASA - from a decision of the Court of First Instance of Lipa City, the dispositive part of which reads:

"WHEREFORE, considering the foregoing circumstances, and following the rulings held by our Supreme Court in the cases of the City of Baguio vs. Nawasa, G.R. No. L-12032; City of Cebu vs. Nawasa, G.R. No. L-12892 and Municipality of Lucban vs. Nawasa, G. R. No. L-15525, judgment is hereby pronounced in favor of the plaintiff and against the defendant, declaring the former as owner of the San Juan Waterworks System and ordering the latter to render an accounting of the income derived by it from December 31, 1955, to the present, less the sum of P20,000.00, the cost of the useful and necessary expenses introduced by it into the said system; or in the alternative, the defendant may continue the ownership, possession, operation, supervision and administration of the said waterworks system, after paying to the plaintiff the sum of P101,030.02, the value of the system, when it was taken over by the defendant. No cost is hereby assessed."

Plaintiff herein, the Municipality of San Juan, is a municipal corporation, forming part of the Province of Batangas. Prior to 1955, said plaintiff had constructed its waterworks system, known as San Juan Waterworks, partly with insular aid and partly with local and loan funds, and then operated it with a certificate of public convenience granted by the Public Service Commission. In December, 1955, when the System was worth P101,030.02, more or less, the NAWASA, invoking the provisions of Republic Act No. 1383,[1] assumed control over said waterworks, excluding therefrom the plaintiff. Accordingly, the latter commenced the present action against NAWASA, to secure a declaration of unconstitutionality of said Act, upon the ground that it deprived plaintiff of its property, without due process of law and without just compensation, as well as a judgment sentencing NAWASA to relinquish to plaintiff the possession, ownership, control, supervision, operation and administration of the waterworks in question and to render an account of the funds derived from its operation from December 1955. After appropriate proceedings said court rendered the aforementioned decision, from which NAWASA has taken the present appeal.

NAWASA does not question the wisdom of City of Baguio vs. NAWASA,[2] City of Cebu vs. NAWASA,[3] and Municipality of Lucban vs. NAWASA,[4] declaring Republic Act No. 1383 unconstitutional insofar as it provides for the transfer to the National Government, through the NAWASA, of the ownership of local waterworks system belonging to municipal corporations, without due process of law. It seeks, however, to evade the effect of said decisions, by arguing that, as regards the waterworks system involved in the case at bar, what has taken place is a transfer, not of the ownership or title to said system, but merely, of its possession, administration and control, and that such transfer of the latter is a valid exercise of the police power of the State.

However, this pretense had already been rejected in previous cases of similar nature. In *Municipality of Naguilian vs. NAWASA*,^[5] we declared:

"This Court has already overruled appellant's proposition that Republic Act No. 1383, constitutes a valid exercise of police power. As we have said (in the aforementioned three cases, the issue raised by the instant appellant has been repeatedly decided by this Court) the Act does not seek to merely trans-fer administration of the property of a municipal corporation from one agency to another for purposes of supervision and control; ownership and beneficial interest are also conveyed. It carries out a real transfer of dominion over the waterworks to the new agency, the NAWASA."

The language used in *Municipality of La Carlota vs. NAWASA*^[6] was:

"It is hard to conceive how the jurisdiction, supervision and control of the appellee's waterworks system may be vested in the appellant without destroying the integrity of the appellee's right of dominion. Ownership is nothing without the inherent rights of possession, control and enjoyment. Where the owner is deprived of the ordinary and beneficial use of his property or of its value by its being diverted to public use, there is taking within the constitutional sense. Tañada & Fernando, *Constitution of the Philippines*, 4th ed., Vol. I, 215-216. Such deprivation would be the certain consequence if, as prayed for by the appellant, it should be allowed to assume jurisdiction, supervision and control over the waterworks system of the appellee. That would be little less than an assumption of ownership itself and not of mere administration."

What is more, in *Municipality of Compostela vs. NAWASA*,^[7] this Court went further and postulated that:

"The alleged sufficiency of Republic Act No. 1383 to justify the action taken by the NAWASA has been overruled by this Court in *City of Baguio vs. NAWASA* (57 Off. Gaz. 1584), *City of Cebu vs. NAWASA*, L-12892 (April 20, 1960), *Naguilian vs. NAWASA*, L-18540 (November 29, 1963), and *La Carlota vs. NAWASA*, L-20232 (September 30, 1964), in which we held that the National Government can not appropriate patrimonial property of municipal corporations without just compensation and due process of law. As a consequence, neither may the National Government assume the power of administration of patrimonial property of municipal corporations, if such action is based upon the aforementioned appropriation of said property by the State. In fact, it may not, by operation of law, assume such administration, without appropriating the title to the property, if the same or the income derived from its operation will be comingled with other property, either of the National Government or of other municipal corporations, in such a way to permit the use of the property or income belonging to one of such corporations (because it was derived from the operation of its patrimonial property), for the benefit of another municipal corporation or of the State itself. (37 Am. Jur. p. 700; 62 C.J.S., p. 348; 38 Am. Jur. pp. 97-98; 103 A.L.R. p. 579.)"

We note that the decision appealed from grants NAWASA the option to retain the ownership, possession, operation, supervision and administration of the waterworks system of San Juan upon payment of the sum of P101,030.02. Republic Act No. 1383 empowers the NAWASA to purchase real and personal property, but, this authority is vested by section 3 of the Act in a Board of Directors, which does not appear to have chosen to exercise it. Moreover, the decision appealed from does not fix the period within which the option may be availed of. As a consequence, said decision or portion thereof may pursuant to the doctrine laid down in *Ignacio vs. Hilario*^[8] never become final and executory. Said decision should, therefore, specify the time within which the option may be exercised by the proper organ of the NAWASA, which, we feel, should be six (6) months from entry of Judgment in this Court.

Thus modified, the decision appealed from is hereby affirmed, in all other respects, with costs against the NAWASA.

Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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- [1] Approved on June 18, 1955.
 - [2] L-12032, August 31, 1959.
 - [3] L-12892, April 30, 1960.
 - [4] L-15525, October 11, 1961.
 - [5] L-18540, November 29, 1963.
 - [6] L-20232, September 30, 1964.
 - [7] L-21763, December 17, 1966.
 - [8] L-175, April 30, 1946; 76 Phil., 605, 608-609.

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