

PHILIPPINE REALTORS, INC., PETITIONER, VS. HON. GUILLERMO SANTOS, AS PRESIDING JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH XI; AND REPUBLIC OF THE PHILIPPINES, HEREIN REPRE...

G.R. No. L-21678. October 30, 1964

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Petitioner Philippine Realtors, Inc., obtained a judgment on 14 August 1959 against the defendants in an ejectment suit, Civil Case No. 69191 of the Municipal Court of Manila, involving a parcel of land identified as Lot 10-B-3-C-1, Psd-23486, situated in the district of Sampaloc, Manila, containing an area of 20,500 square meters, more or less, covered by, and more particularly described in, Transfer Certificate of Title No. 13796 of the land records of the said city. Writs of execution were accordingly issued on 31 August 1959 and orders of demolition on 12 September 1959. On 9 September 1959, the defendants filed Civil Case No. 41400 in the Court of First Instance of Manila and obtained a writ restraining the ejectment of the defendants and the demolition of their houses. On 28 November 1959, said Civil Case No. 41400 was dismissed, and restraining writ was dissolved; whereupon, the Municipal Court issued, on 5 December 1959, the alias writs of ejectment and execution. But on 9 December 1959, the Court of First Instance revived the restraining order until the order of dismissal became final; wherefore, on 12 December 1959, the defendants appealed to the Court of Appeals, but their appeal was dismissed on 22 January 1963, and their petition for review with the Supreme Court was also dismissed.

When the records were remanded to the Municipal Court, the latter, on 1 August 1963, gave due course to the issuance of alias writs of execution and demolition orders; but on 5 August 1963 the Land Tenure Administration, representing the Republic of the Philippines, filed in the Court of First Instance of Manila Civil Case No. 54648 for the expropriation of the two and a half (2½) hectares parcel of land, with a view to subdividing it into small lots to be sold to the tenants and occupants thereat, and the said court, on 6 August 1959, issued an order restraining the ejectment and demolition.

The complaint in condemnation alleges that the land formerly formed part of the Hacienda Tuazon and is occupied by more than forty (40) tenant-families, who have their houses and improvements built thereon and had been leasing the land for more than ten (10) years, and that the Land Tenure Administration filed the case pursuant to the government policy embodied in Section 2 of Republic Act No. 1400, as amended, in relation to Section 5(5) of the same Act and Republic Act No. 1162, as finally amended by Republic Act No. 3516.

On the present petition, the only issue is whether the land is expropriable under Section 4, Article XIII, of the Constitution.

That the condemnation of the kind sought herein is inappropriate and impermissible has been ruled in a long line of decisions of this Court: *Guido vs. Rural Progress Administration*, 84 Phil. 847; *Commonwealth vs. Borja*, 85

Phil. 57; City of Manila vs. Arellano Law School, 85 Phil. 663; Lee Tay & Lee Chay vs. Choco, L-3297, Dec. 29, 1950; Urban Estate Inc. vs. Judge Montesa, 88 Phil. 348, L-8830, March 15, 1951; Mun. of Caloocan vs. Manotok Realty, 94 Phil. 1003; Mun. Gov't. of Caloocan vs. Chuan Huat & Co., 50 Off. Gaz., 5309; Republic vs. Manotok Realty, L-20204, July 31, 1964.

In the recent case of Republic of the Philippines versus Manotok Realty, Inc., G. R. No. L-20204, promulgated on 31 July 1964, this Court stated:

"We do not see any reason to depart from the views already expressed concerning the right of the Government to expropriate 'estates' or landed properties, in relation to small urban lands such as a five-hectare lot. And we do not see any reason to exclude a seven-hectare lot from the purview of said decisions.

"We note that section 1 of Republic Act 2342 authorizes the expropriation of 'lands which formerly formed part' of landed estates or haciendas, and that the lots in question were formerly part of a 28-hectare property. However, supposing that such 28-hectare land was expropriable because it constituted a landed estate, it does not follow that years after it has been partitioned, a seven-hectare part thereof is still a landed estate, within the meaning of the Constitution permitting expropriation of land for resale to tenants. Surely the Legislature cannot validly, by legislative fiat, declare a one-hectare land to be landed estate simply because at some time in the past it had formed part of a landed estate.

"Neither may the Legislature validly declare such land to be an estate simply because it is in the City of Manila and is occupied by fifty tenants. For the purpose of determining whether a piece of land is a landed estate within the meaning of the Constitution, its area or extension must be taken into account. Not necessarily the number of tenants."

Whatever the personal opinion of the writer, the binding precedents are clearly against the contention of respondents herein. Hence, the writs of certiorari and prohibition prayed for by petitioner must be granted.

Wherefore, the contested order of 6 August 1963 of the Court of First Instance of Manila, in its Civil Case No. 54648, is hereby set aside; said court is further prohibited from proceeding with the condemnation case and ordered to dismiss the same. No costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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