

TERESA REALTY, INC., PLAINTIFF AND APPELLEE VS. STATE CONSTRUCTION AND SUPPLY CO., ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. L-10883. March 25, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action for unlawful detainer filed by plaintiff against defendants before the Municipal Court of Manila. Judgment was rendered therein ordering defendants and all persons claiming under them to vacate the property described in the complaint and sentencing them to pay the plaintiff the sum of P153.60 monthly as reasonable value of the use and occupation thereof from January 1, 1954 until plaintiff is restored to its possession, plus the costs of action. Defendants have appealed.

When the case was called for trial, counsel for defendants asked for postponement on the ground that their witnesses did not show up. They also invited the attention of the court to the fact that a motion for suspension of the proceedings was mistakenly filed in the municipal court and to rectify the error they were refiled it in the court of first instance praying that it be favorably considered. The court denied the motion for postponement as well as the motion for suspension for the following reasons: (1) defendants failed to comply with the Rules of Court concerning notice, (2) the answer has not been amended to set up Republic Act No. 1162 as a defense, and (3) said Act cannot, affect the lot and contract of lease in question without rendering it unconstitutional.

After plaintiff had rested its case, counsel for defendants asked for a brief recess. Thereafter, counsel asked for postponement to have time to prepare their evidence but in view of plaintiff's opposition it was denied. However, counsel for plaintiff voluntarily admitted certain facts which defendants wanted to prove and the case was submitted for decision. Thereupon, the court rendered judgment which is practically of the same tenor as that rendered by the municipal court. Defendants appealed to the Court of Appeals, but the case was certified to us on the ground that only questions of law are involved.

One of the issues raised refers to the denial by the trial court of the motion filed by defendants to suspend the present ejectment case invoking in their favor the provisions of Republic Act No. 1162, particularly Section 5, which provides that "From the approval of this Act, and until the expropriation herein provided, no ejectment proceedings shall be instituted or prosecuted, against any tenant or occupant of any landed estates or haciendas herein authorized to be expropriated if he pays his current rentals." It is claimed that said Act was approved on June 18, 1954 and since this action was instituted on March 31, 1954, and remained pending when said Act was approved, it was the duty of the court to suspend the case in order that the purpose of said Act may be carried out which is to expropriate the land and subdivide it into small lots for sale at cost to its bonafide tenants or occupants.

Appellee, on the other hand, contends that said Act is inapplicable to the present case for the reason that there is no evidence showing that the property in question forms part of a landed estate within the meaning of said Act,

and even if it were so, still the Act cannot apply because there is no showing that the Government has ever taken any step relative to the expropriation of the property.

We are inclined to agree to appellee's contention for it can not be supposed that Congress in approving Republic Act No. 1162 had intended to actually suspend the prosecution of an ejectment proceeding even before any definite step or action is taken by the Government relative to the expropriation of the property, for to hold otherwise would be to deprive a landlord of his right to protect his interest by merely claiming that the Government may someday act on the matter thereby placing him at the mercy of an unscrupulous tenant. While it is laudable and proper that a landed estate be expropriated in order that it may be subdivided and sold to bonafide tenants or occupants, the same should be undertaken in a manner not repugnant to law or to the Constitution. In other words, the suspension of an ejectment proceeding should only be made after the Government has taken step or action relative to the expropriation of the property in accordance with the procedure laid down by law, otherwise the action would place the interest of the landlord in jeopardy. Such cannot be the intendment of the law. As aptly explained by the Court of Appeals in several cases involving the applicability of Republic Act No. 1162, to which we agree, "until such a proceeding is actually commenced the right of a landowner to prosecute an action for ejectment under existing laws cannot be deemed suspended under section 5 of Republic Act No. 1162. To hold otherwise, that is, to deprive a landlord of his remedy because of the possibility that the Government may some day, in the near or distant future, act to expropriate his property, would be to place him at the mercy of a thoroughly uncertain contingency. * * * We think that the prohibition against the institution or prosecution of ejectment proceedings applies only when expropriation has actually commenced." (Barcelon vs. Isip, CA-G. R. No. 13650-R, Oct. 14, 1954; See also Cacho vs. Tan, CA-G. R. Nos. 13888-R to 13891-R, Dec. 10, 1954; Antonio Tuason, Jr. vs. Narvasa, CA-G. R. No. 14479-R, July 30, 1955).

In the case of Republic vs. Cirilto P. Baylosis, 96 Phil., 461, this Court, speaking of the effect of an attempt to expropriate certain property by the Government on the right of a landlord to protect his interest, made the following pronouncement:

"* * * We hold that mere notice of the intention of the Government to expropriate lands in the future does not and cannot bind the landowner and prevent him from dealing with his property. To bind the land to be expropriated and the owner thereof, the expropriation must be commenced in court and even then we are not certain that the owner may not deal with his property thereafter, mortgage or even sell it if he can find persons who would step into his shoes and deal with the Government, either resist the expropriation if in their opinion it is illegal or accept the expropriation and remain with what is left of the property if the entire property is not needed by the Government."

It is obvious from the foregoing that the trial court did not err in holding that Republic Act No. 1162 is inapplicable to this case for there is no showing that an expropriation proceeding has actually been commenced by the Government which would give defendants the right to demand the suspension of the ejectment case within the meaning of said Act.

The next issue raised by appellants refers to the rental of P153.60 a month which the trial court ordered said appellants to pay as reasonable value of the use and occupation of the property in question, which rental they claim to be unfair and excessive.

It should be noted that defendants have occupied the property under lease for thirty years or more until 1953 when plaintiff, upon the expiration of the contract of lease, made a re-appraisal of the rental and fixed a new rate on the basis of 12% of the current assessed value of the property. This rental can hardly be considered excessive considering that Section 3 of Republic Act 1162 expressly provides 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." This is an express recognition that a rental not exceeding 12% per annum of the assessed value of the property is not excessive. Indeed, defendants can not pretend to pay the same or similar rentals to what they had paid during the 30-year period covered by their contract of lease. It is a matter of general knowledge that the values of real estate have steadily gone up with the passing of the years and it is but fair that their productivity be correspondingly increased. The error assigned has therefore no merit.

Wherefore, the decision appealed from is affirmed, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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