

MUNICIPALITY OF LA CARLOTA, PLAINTIFF AND APPELLEE, VS. NATIONAL WATERWORKS AND SEWERAGE AUTHORITY (NAWASA), DEFENDANT AND APPELLANT.

G.R. No. L-20232. September 30, 1964

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The municipality of La Carlota was the owner of the waterworks system serving its inhabitants until the enactment of Republic Act No. 1383 on June 28, 1955, when by virtue of its provisions the National Waterworks and Sewerage Authority (NAWASA) assumed ownership and took over the supervision, administration and control of the said system, including the collection of water rentals from the consumers. On April 5, 1950 the municipality commenced this action in the Court of First Instance of Negros Occidental against the NAWASA for recovery and accounting. On September 27, 1961 judgment was rendered as follows:

"EN VIRTUD DE LO EXPUESTO, el Juzgado falla esta causa condenado a la demandada para que restituya al demandante el dominio y titulo, asi como la posesion, supervision, administracion y control del sistema de traída de Aguas del Municipio de la Carlota.

"Se ordena, asimismo, a la demandada para que dentro del plazo de 30 dias a contar desde le fecha en que esta decision quede firme y ejecutoria, rinda una cuenta detallada de todas las cantidades cobradas por ella de los consumidores del sistema durante el periodo de itempo desde que se hizo cargo del sistema hasta la fecha en que actualmente haya restituido al demandante dicho sistema.

"Por falta de pruebas, se sobresee la reconvencion interpuesta por la demandada.

"Las costas del juicio se tasaran en contra de la demandada."

In the present appeal by the defendant it assigns one error in the judgment, namely, "in holding that the possession, administration, supervision, and maintenance of the La Carlota water system is vested in the municipality of La Carlota . . . even on the assumption that ownership of said system belongs to the municipality."

The appellant concedes, on the authority of *City of Baguio vs. NAWASA*, 57 Off. Gaz., No. 9, p. 1584, and *City of Cebu vs. NAWASA*, 107 Phil., 1112, that in so far as Republic Act No. 1383 transfers ownership of the water system of the appellee to the appellant the said Act is unconstitutional because it does not provide for the payment of just compensation as required by the Constitution, the transfer being in the nature of expropriation of private (patrimonial) property. However, it is contended that although ownership may not thus be transferred, the law (Sec. 1) also authorizes the NAWASA to 'have jurisdiction, supervision and control over ... all areas now served by existing government-owned waterworks and sewerage and drainage systems within the boundaries of cities, municipalities, and municipal districts in the Philippines . . . "On this ground the appellant prays that the judgment appealed from be reversed in part and that the return to it of the "possession, supervision, administration and control of the La Carlota waterworks system" be ordered.

In *City of Cebu vs. NAWASA*, supra, which was an action for declaratory relief, this Court did not squarely pass upon the question of whether, apart from ownership, the defendant could exercise "jurisdiction, supervision and control" over the Cebu waterworks system without paying just compensation. It is true that the trial court upheld the exercise of such right in its decision, leaving for future determination and question of what would constitute acts of ownership and what would be considered as an exercise of jurisdiction, supervision and control, but this Court on appeal did not treat the particular matter as an issue before it and neither passed upon it nor rendered a ruling thereon. That case is therefore no authority for the position of the appellant here as presented in its lone assignment of error. Neither may it find support in the statement in our decision in *City of Baguio vs. NAWASA*, supra, that "unless this aspect of the law (concerning payment of just compensation is clarified and appellee is given its due compensation, appellee cannot be deprived of its property even if appellant desires to take over the administration in line with the spirit of the law." This Court, in said decision, took note of the authorities cited by the appellant therein to sustain its contention that Congress has the power, without impairing vested rights, to transfer property of a municipal corporation from one government agency to another as long as such property continues to be devoted to its original purpose. But the decision precisely pointed out that those authorities are not in point, since the transfers involved therein were merely for purposes of administration, the ownership of and benefits from the property being retained by the municipal corporations concerned, whereas the clear intent of Republic Act No. 1383 'is to affect a real transfer of the ownership of the waterworks . . . and does not merely encompass a transfer of administration."

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. 1, 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 all assumption of ownership itself and not of mere administration.

The judgment appealed from is affirmed, with costs.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Paredes, Dizon, Regala, Bengzon, J.P., and Zaldivar, JJ., concur.

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