

**TAN TY, PETITIONER-APPELLANT, VS. LAND TENURE
ADMINISTRATION (DEFUNCT) NOW LAND AUTHORITY, EXECUTIVE
SECRETARY, OFFICE OF THE PRESIDENT OF THE PHILIPPINES,
RESPONDENTS-APPELLEES.**

G.R. No. L-27971. October 07, 1970

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

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REYES, J.B.L., Acting C.J.:

The decision of the Court of First Instance of Manila (in Civil Case No. 68028), is appealed to this Court by Tan Ty, a Chinese citizen, raising the issue of the qualification of a non-Filipino citizen to lease land previously expropriated by the Government for resale to its bona fide tenants and occupants and to other qualified persons, under the provisions of Republic Act 1162, as amended by Republic Act 1599.

The case arose from the denial by the Land Tenure Administration (now replaced by Land Authority) of the application of Tan Ty, a Chinese to lease four-lots (Nos. 19, 20, 21, and 24, Block No. 3) of the Fabie Estate in Paco, Manila which was purchased by the government in 1955 to be subdivided into small lots for resale to its bona fide tenants and occupants and to other persons. The denial of the aforementioned application was based on the fact that, although applicant Tan Ty was able to establish that she was the tenant of the lots applied for even prior to the government's acquisition of the Estate, her application to lease the same was filed with the Land Tenure Administration only on 21 October 1957, or after the said lots had been allocated to other parties.[1] Tan Ty's claim to Priority in the lease of the lots was also rejected, for the reason that under the law, the privilege to lease lands expropriated by the government for resale may be availed of only by tenants or occupants qualified to purchase, but who are not financially capable at the start of purchasing at cost the lot or lots occupied by them. And applicant Tan Ty is not such tenant or occupant qualified to buy the land.

On appeal by the applicant, the President, through the Assistant Executive Secretary, affirmed the ruling of the Land Tenure Administration. It was held that although the applicant may not be considered disqualified by the fact of her Chinese citizenship, the legal prohibition against alien acquisition of real property being directed against the purchase thereof and not to a mere leasing of the same, Tan Ty's application had to be denied because it was filed after the lots applied for had been allocated to other applicants. Besides, the decision stated, investigation disclosed that applicant Tan Ty was not an occupant of the area applied for; in fact, no construction existed thereon. The applicant was staying in a building adjacent to the lots in question, and originally owned by her but which she later sold to Roxas Chua de Ayala. When her motion for reconsideration of the President's decision was denied, Tan Ty instituted certiorari proceeding in the Court of First Instance of Manila (Civil Case No. 68028), charging the Land Tenure Administration (whose functions were taken over by the Land Authority) of having committed grave abuse of discretion in allocating Lots Nos. 19, 20, 21 and 24 of Block 3 of the Fabie Estate to other persons, thus depriving petitioner of her property rights thereto without due process of law. After the respondents Land Authority and Executive Secretary had filed their answers, and the parties their respective memoranda, the case was submitted for judgment on the pleadings.

In its decision of 5 July 1967, the court ruled that petitioner, being a Chinese and therefore disqualified to purchase the disputed lots, is equally without qualification to lease the same, the right to lease, under the law, arising merely from the applicant's right to purchase. Her claim that she was deprived of the right to equal protection of the law was, likewise, overruled. The court declared that the equal protection clause is not without limitations; that there are rights that the law reserves only to Filipino citizens, such as the right of suffrage, the right to hold public office, to operate public services and others. The right to own lands is one of them. The applicant moved to reconsider this decision, and when it was denied, she interposed the present appeal.

The lower court could not have ruled otherwise. Admittedly, appellant is not qualified to purchase the land involved in the case on account of her Chinese citizenship. She insists, however, that as bona fide tenant thereof, she is entitled to lease the property, citing in support of her allegation Section 3 of Republic Act 1162,[2] as amended by Republic Act 1599, which provides:

"SEC. 3. The landed estates or haciendas expropriated by virtue of this Act shall be subdivided into small lots, none of which shall exceed one hundred and fifty square meters in area, to be sold at cost to the tenants, or occupants, of said lots, and to other individuals, in the order mentioned; Provided, That if the tenant of any given lot is not able to purchase said lot, he shall be given a lease from month to month of said lot until such time that he is able to purchase the same: Provided, further, That in the event of lease the rentals that may be charged by the Government shall not exceed eight per cent per annum of the assessed valuation of the property leased."

The legal provisions abovequoted is too clear to cause any confusion or diverging interpretations. The pervading aim of the law which properly should guide the construction to be placed on any of its provisions, is for the State to provide home lots to its citizens, to enable them to own at least the land on which their houses are built. Hence, the mandate to the administration to acquire landed estates, break them up into small lots not exceeding 150 square meters in area, for resale at cost to the tenants or occupants thereof, not to other persons. And if a tenant is in no position to buy the lot he is occupying at the time of its acquisition by the government, the law even grants him the privilege to lease the same from the government on monthly basis, "until such time that he is able to purchase the same". No other conclusion can be derived from the provision than that the lease mentioned therein can be availed of only by one who is qualified, but is in no financial position for the present to buy the land. It certainly would not justify the lease of the lots to non-Philippine citizens, notwithstanding the fact that they may have really been the tenants thereon even prior to the acquisition of the expropriated property by the government. To extend to these aliens the benefit of the first proviso of Section 3 of Republic Act No. 1162 abovequoted, notwithstanding their permanent disability to acquire title to land under the Constitution, would result in their acquiring possession in perpetuity. This is not only incompatible with the essential temporary nature in law of a contract of lease, but, in effect, would be a violation of the Constitutional inhibition. For a perpetual lease of land would be practically an alienation thereof.

Appellant asks whether the provision as thus construed would not constitute a deprivation of appellant's right to property without due process of law, or amount to a denial to appellant, a resident of the Philippines, of the equal protection guarantee of the Constitution.

It must be remembered in this connection that the fact alone that the law withdraw from non-Filipinos the enjoyment of certain rights exclusively reserved to Philippine citizens does not expose such law to charges of constitutional infirmity. For classification will constitute no violation of the individual's right to equal protection as long as it is not unreasonable, arbitrary or capricious. The established and recognized principle is that classification is not unreasonable where it is based on substantial distinctions that make real differences, is germane to the aim and purpose of the law, is not limited to existing conditions, and it applies equally to all

members of the same class, under similar conditions.[3] A legislation that affects a particular class would not infringe the constitutional guarantee of equal protection of the laws, provided said statute applies uniformly and without discrimination to everyone of that class.[4] In this case, a classification based on citizenship is more than justified. The requirement that lots in an expropriated estate shall be leased only to those who are qualified in law to buy the same can hardly be considered unreasonable. Republic Act 1162 was not enacted to allow the government to go into the real estate business, by leasing lots to those who desire and can afford to rent. It is rather aimed at giving realization and meaning to the policy of the State to provide land for the landless citizens and enabling them to acquire home-lots at minimum cost. Clearly, the measure of reasonableness is reached.

Neither can it be seriously contended that by the government's denial of appellant's application to lease the lots, and their allocation in favor of other persons, appellant was deprived of property rights without due process. It was said, not inappropriately, that due process, as a constitutional mandate, is based on reason.[5] No irrationality can be said to characterize the denial of appellant's application. Her occupancy of the lots as a tenant of the previous owner on a month-to-month basis did not confer upon her any vested right on the property leased that the new owner was bound to respect. And nothing appears on the record that the government, in exercising the right of eminent domain, had agreed to respect any existing contract in favor of tenants like the appellant.

While appellant may have introduced improvements on the lot leased, by so doing despite absence of a fixed term, the lessee took the risk of not being able to recoup the value of said improvements before being compelled to vacate. For this mischance, the lessee is solely responsible. The law is clear that at the expiration of the lease the lessor is not compellable to acquire the improvements made by the lessee (Civil Code of the Philippines, Article 1678).

WHEREFORE, finding no error in the decision of the court below, the same is hereby affirmed, with costs against the appellant.

Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and Makasiar, JJ., concur.
Concepcion, C.J., and Villamor, J., on official leave.

[1] It appears that Lot No. 19 was allocated to Rufina Bernal on 2 July 1956, and was covered by an agreement to sell dated 7 May 1957; Lot No. 20, allocated to Raymunda Cuestas on 2 July 1957; Lot No. 21, allocated to Magno Acosta on 29 August 1955, and covered by agreement to sell dated 22 November 1957; and Lot No. 24, allocated to Simplicio Cuenca on 13 September 1956 and Covered by Agreement to sell dated 24 January 1957.

[2] An Act providing for the Expropriation of Landed Estates or Haciendas or Lands which formed part thereof in the City of Manila, their subdivision into small lots, and the sale of such lots at cost or their lease on reasonable terms, and for other purposes.

[3] *Felwa vs. Salas*, L-26511, 29 October 1966; *Aleja vs. GSIS*, L-18529, 26 February 1965, 13 SCRA 212; *People vs. Solon*, L-14864, 23 November 1960; *People vs. Vera*, 65 Phil. 56; *Laurel vs. Misa*, 42 OG 2847.

[4] *Rafael vs. Embroidery and Apparel Control and Inspection Board*, L-29978, 29 September 1967, 21 SCRA 336; *J. M. Tuason & Co., Inc. vs. Land Tenure Administration*, L-21064, 18 February 1970, 31 SCRA 413.

[5] See *J. M. Tuason & Co., Inc. vs. Land Tenure Administration*, *supra*.

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