

JOSE V. IGNACIO, PETITIONER, VS. HON. BUENAVENTURA J. GUERRERO, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL AND NATIONAL HOUSING AUTHORITY, RESPONDENTS.

G.R. No. L-49088. May 29, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a Petition for certiorari seeking the annulment of two (2) Orders of the Court of First Instance of Rizal in Civil Case No. 28074.

The record of the case discloses that the herein petitioner Jose V. Ignacio is the owner of a parcel of land located in Antipolo, Rizal province with an area of about 3.6156 hectares. The petitioner has converted the tract of land into a quarry.

On the other hand, the herein respondent National Housing Authority (NHA) is a government agency empowered by law to acquire private lands for the purpose of housing development, resettlement projects and other related services.

On December 5, 1977, the respondent NHA filed a Complaint for expropriation against the petitioner and some 26 other parties who owned the parcels of land ad-joining the aforementioned property of the petitioner.[1] The Complaint was instituted with the Court of First Instance of Rizal and was docketed as Civil Case No. 28074.

The respondent NHA alleges in the Complaint that the parcels of land sought to be expropriated would be used to accommodate the expansion of the Government's Bagong Nasyon Housing Project in the said area. It is also alleged therein that the market value of the property of the petitioner is about P36,160.00 as determined by the Provincial Assessor.

The NHA sought authority from the trial court to take immediate possession of the parcels of land in question. For this purpose, and pursuant to the provisions of Presidential Decree No. 1224, the NHA deposited with the Philippine Heart Center (Quezon City) branch of the Philippine National Bank the amount of P158,980.00 to cover the value of all the parcels of land sought to be expropriated, including the property of the petitioner.

The petitioner filed a Motion to Dismiss the Complaint.[2] He contended therein that the current fair market value of his property is P723,000.00 and not P36,160.00 as alleged by the respondent NHA. The petitioner also stressed that the amount of P36,160.00 which the respondent NHA considers to be just compensation as far as the property of the petitioner is concerned is unconscionable, arbitrary, oppressive and repugnant to the concept of just compensation embodied in the Constitution.

In its Order dated January 17, 1978, the trial court, with respondent Judge Buenaventura J. Guerrero presiding therein, issued a writ of possession over the properties sought to be expropriated, including that of the petitioner,

in favor of the respondent NHA.[3] The pertinent portions of the said Order are as follows:

"Plaintiff having deposited with the Philippine National Bank, Heart Center Extension Office, Diliman, Quezon City, Metro Manila, the amount of P158,980.00 representing the total market value of the subject parcels of land, let a writ of possession be issued.

"SO ORDERED.

"x x x."

A Motion for Reconsideration of the said Order was filed with the trial court.[4] The Motion stressed that the questioned Order violates the just compensation provision of the Constitution.[5] Thereafter, the respondent NHA submitted its Opposition to the Motion for Reconsideration.[6] The said Opposition is anchored on the arguments that the writ of possession issued by the trial court was in accordance with the provisions of Presidential Decree No. 1224, and that the questioned Order merely authorized the issuance of the writ of possession to the NHA without prejudice to the right of the property owners to be paid just compensation.

The petitioner also manifested to the trial court that pursuant to Section 2, Rule 67 of the Rules of Court, a court hearing for the determination of the required just compensation is an indispensable requisite before the NHA can take possession of the private property sought to be expropriated.[7] In its Opposition to the said Manifestation,[8] the NHA replied that the provisions of Section 2, Rule 67 of the Rules have been repealed by the provisions of Presidential Decree No. 1259 and that, accordingly, the issuance of the writ of possession over the property sought to be expropriated has become a matter of right on the part of the NHA upon the filing of the Complaint for expropriation and the deposit of the amount of just compensation as provided for in Presidential Decree No. 1259 and in the other Decrees relied upon by the NHA.

In its Orders dated February 10 and 24, 1978, the trial court instructed the Office of the Solicitor General (OSG) to submit their Comment on the matter. In compliance with the same, the OSG submitted its Comment dated March 27, 1978, maintaining the constitutionality of Presidential Decree No. 1224.[9]

In its Order dated June 28, 1978, the trial court denied the Motion for Reconsideration filed by the petitioner and his co-defendants in the case.[10] The pertinent portions of the said Order are as follows:

"Acting on the Motion for Reconsideration of defendants Lorenzo Sumulong, Emilia Vidanes--Balaoing and Jose Ignacio and (the) plaintiff's opposition as well as the comment of the Office of the Solicitor General and finding (the) plaintiff's opposition and the comment to be well-taken, for reasons stated in said opposition and comment, the Motion for Reconsideration of said defendants are (sic) hereby denied.

"x x x."

Finding the action taken by the trial court to be unsatisfactory, the herein petitioner elevated the case directly to this Court by way of a special civil action for certiorari under Rule 65 of the Rules of Court.[11] The Petition was filed with this Court on October 12, 1978.

The herein petitioner maintains that the respondent Judge failed to observe the provisions of Section 2, Rule 67 of the Rules of Court requiring the court to first determine and fix the value of the real property sought to be expropriated before issuing a writ of possession. The petitioner also argues that the courts have the exclusive discretion to determine and fix the just compensation mandated by the Constitution as regards the expropriation of private property.

The petitioner likewise maintains that Presidential Decree No. 1224 is unconstitutional in so far as it fixes just compensation for expropriated private property and in so far as it deprives the property owner of a day in court at

least for the purpose of determining the public purpose alleged by the respondent NHA and for the provisional determination of just compensation in accordance with Section 2, Rule 67 of the Rules of Court.

In sum, the petitioner contends that the trial court acted in excess of its jurisdiction when it issued the writ of possession in question and when it denied his Motion for Reconsideration.

On December 4, 1978, the respondents, represented by the Office of the Solicitor General, submitted their Comment on the Petition wherein they contended otherwise.[12] On December 12, 1978, the respondent NHA, represented by the Office of the Government Corporate Counsel, submitted another Comment on the Petition.[13]

In the Resolution of this Court dated February 27, 1979, We gave due course to the instant Petition.[14] The parties were instructed to submit their respective Memoranda. After the parties had complied with the said instructions, the instant Petition was deemed submitted for decision on August 19, 1980.

After a careful examination of the entire record of the case, We find merit in the instant Petition.

Contrary to the contentions of the respondent NHA, the challenged Order of the trial court dated January 17, 1978 virtually fixed the market value of the properties sought to be expropriated, including the property of the petitioner, at P158,980.00, the value determined by the Provincial Assessor and relied upon by the respondent NHA in its Complaint for expropriation. An inspection of the terms of the said Order shows that the trial court has, in effect, declared the just compensation for all the properties sought to be expropriated to be at P158,980.00.

In justifying the questioned Order, the respondent NHA invokes Section 2 of Presidential Decree No. 1224 which fixes just compensation for expropriated private property as follows:

"In the determination of just compensation for such private lands and improvements to be expropriated, the Government shall choose between the value of the real property and the improvements thereon as declared by the owner or administrator thereof from time to time, or the market value as may be determined by the city or provincial assessor, whichever is lower."

The respondent NHA admits that similar, if not identical provisions can be found in expropriation laws such as Presidential Decree Nos. 76, 464, 794, 1259 and 1313. Presidential Decree No. 1533, one of the latest laws on eminent domain proceedings, also carries a similar provision.

Unfortunately for the respondents, their justification cannot be sustained.

In *Export Processing Zone Authority v. Dulay*,^[15] this Court, speaking through Mr. Justice Hugo E. Gutierrez, Jr., declared the provisions on just compensation found in Presidential Decree Nos. 76, 464, 794 and 1533 unconstitutional encroachments on judicial prerogatives. The pertinent portions of the Decision of this Court are as follows:

"The method of ascertaining just compensation under the aforecited decrees constitutes impermissible encroachment on judicial prerogatives. It tends to render this Court inutile in a matter which under the Constitution is reserved to it for final determination.

"Thus, although in an expropriation proceeding the court technically would still have the power to determine the just compensation for the property, following the applicable decrees, its task would be relegated to simply stating the lower value of the property as declared either by the owner or the assessor. As a necessary consequence, it would be useless for the court to appoint commissioners under Rule 67 of the Rules of Court. Moreover, the need to satisfy the due process clause in the taking of private property is seemingly fulfilled since it cannot be said that a judicial proceeding was not had before the actual taking. However, the strict application of the decrees during the proceedings would be nothing short of a mere formality or charade as the court has only to choose between the valuation of the owner and that of the assessor, and its choice is always

limited to the lower of the two. The court cannot exercise its discretion or independence in determining what is just or fair. Even a grade school pupil could sub-stitute for the judge insofar as the determination of constitutional just compensation is concerned.

"x x x.

"The basic unfairness of the decrees is readily apparent.

"Just compensation means the value of the property at the time of the taking. It means a fair and full equivalent for the loss sustained. All the facts as to the condition of the property and its surroundings, its improvements and capabilities, should be considered.

"x x x.

"Various factors can come into play in the valuation of specific properties singled out for expropriation. The values given by provincial assessors are usually uniform for very wide areas covering several barrios or even an entire town with the exception of the poblacion. Individual differences are never taken into account. The value of land is based on such generalities as its possible cultivation for rice, corn, coconuts, or other crops. Very often land described as 'cogonal' has been cultivated for generations. Buildings are described in terms of only two or three classes of building materials and estimates of areas are more often inaccurate than correct. Tax values can serve as guides but cannot be absolute substitutes for just compensation.

"To say that the owners are estopped to question the valuations made by assessors since they had the opportunity to protest is illusory. The overwhelming mass of land owners accept unquestioningly what is found in the tax declarations prepared by local assessors or municipal clerks for them. They do not even look at, much less analyze, the statements. The idea of expropriation simply never occurs until a demand is made or a case (is) filed by an agency authorized to do so.

"It is violative of due process to deny to the owner the opportunity to prove that the valuation in the tax documents is unfair or wrong. And it is repulsive to basic concepts of justice and fairness to allow the haphazard work of a minor bureaucrat or clerk to absolutely prevail over the judgment of a court promulgated only after expert commissioners have actually viewed the property, after evidence and arguments pro and con have been presented, and after all factors and considerations essential to a fair and just determination have been judiciously evaluated.

"x x x.

"The determination of 'just compensation' in eminent domain cases is a judicial function. The executive department or the legislature may make the initial determinations but when a party claims a violation of the guarantee in the Bill of Rights that private property may not be taken for public use without just compensation, no statute, decree, or executive order can mandate that its own determination shall prevail over the court's findings. Much less can the courts be precluded from looking into the 'just-ness' of the decreed compensation.

"x x x.

This Court also observed in Export Processing Zone Authority that the unconstitutional provisions found in Presidential Decree Nos. 76, 464, 794 and 1533 are likewise found in Presidential Decree Nos. 1224, 1259 and 1313, the laws relied upon by the respondents.

In a Motion filed with this Court on July 25, 1983, the Solicitor General cited the case of National Housing Authority v. Reyes^[16] as jurisprudence in favor of the respondents. We disagree.

While it can be said that in National Housing Authority this Court implicitly upheld the constitutionality of some of the expropriation laws relied upon by the respondent NHA, that ruling has been expressly abandoned by this

Court in Our pronouncement in Export Processing Zone Authority. We quote the pertinent portions of the Decision, viz:

"In the case of National Housing Authority v. Reyes xxx, this Court upheld P.D. No. 464, as further amended by P. D. Nos. 794, 1224 and 1259. x x x.

"x x x, this Court ruled that under the conceded facts, there should be a recognition that the law as it stands must be applied; that the decree having spoken so clearly and un-equivocably calls for obedience; and that on a matter where the applicable law speaks in no un-certain language, the Court has no choice except to yield to its command. We further stated that 'the courts should recognize that the rule introduced by P.D. No. 76 and reiterated in sub-sequent decrees does not upset the established concepts of justice or the constitutional provision on just compensation for, precisely, the owner is allowed to make his own valuation of his property.'

"While the Court yielded to executive prerogative exercised in the form of absolute law-making power, its members, nonetheless, remained uncomfortable with the implications of the decision and the abuse and unfairness which might follow in its wake. For one thing, the President himself (President Marcos) did not seem as-sured or confident with his own enactment. It was not enough to lay down the law on determination of just compensation in P.D. 76. It had to be repeated and reiterated in P.D. 464, P.D. 794, and P.D. 1533. The provision is also found in P.D. 1224, P.D. 1259 and P.D. 1313. x x x.

"In the present petition, we are once again confronted with the same question of whether the courts under P.D. 1533, which contains the same provision on just compensation as its predecessor decrees, still have the power and authority to determine just compensation, independent of what is stated by the decree and to this effect, to appoint commissioners for such purpose.

"This time, we answer in the affirmative.

"x x x.

"We are convinced and so rule that the trial court correctly stated that the valuation in the decree may only serve as a guiding principle or one of the factors in determining just compensation but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount, x x x. The doctrine we enunciated in National Housing Authority v. Reyes, x x x, therefore, must necessarily be abandoned if we are to uphold this Court's role as the guardian of the fundamental rights guaranteed by the due process and equal protection clauses and as the final arbiter over transgressions committed against constitutional rights."

On account of the foregoing discussions, Section 2, Rule 67 of the Rules of Court still governs the procedure for ascertaining just compensation, even on a provisional basis, in eminent domain proceedings, to wit:

"SEC. 2. Entry of plaintiff upon depositing value with National or Provincial Treasurer. -- Upon the filing of the complaint or at any time thereafter the plaintiff shall have the right to take or enter upon the possession of the real or personal property involved if he deposits with the National or Provincial Treasurer its value, as provisionally and promptly ascertained and fixed by the court having jurisdiction of the proceedings, to be held by such treasurer subject to the orders and final disposition of the court. Such deposit shall be in money, unless in lieu thereof the court authorizes the deposit of a certificate of deposit of a depository of the Republic of the Philippines payable on demand to the National or Provincial Treasurer, as the case may be, in the amount di-rected by the court to be deposited. After such deposit is made the court shall order the sheriff or other proper officer to forthwith place the plain-tiff in possession of the property involved."

Pursuant to this cited provision of the Rules, it is imperative that before a writ of possession can be issued by the court in expropriation proceedings, the following requisites must be met: (1) There must be a Complaint for expropriation sufficient in form and in substance; (2) A provisional determination of just compensation for the

properties sought to be expropriated must be made by the trial court on the basis of judicial (not legislative or executive) discretion; and (3) The deposit requirement under Section 2, Rule 67 must be complied with.

In conclusion, We find that the writ of possession issued by the trial court has no valid legal basis. As such, the trial court acted in excess of its jurisdiction when it issued the same. For this reason, the corrective writ of certiorari should be, and is hereby issued as prayed for.

Accordingly, it is Our considered opinion, and We so hold, that the questioned Orders of the trial court dated January 17, 1978 and June 28, 1978 are null and void for having been issued in excess of the court's jurisdiction.

WHEREFORE, in view of the foregoing, the Petition for certiorari is GRANTED. The Orders of the trial court in Civil Case No. 28074, dated January 17, 1978 and June 28, 1978 are hereby annulled for having been issued in excess of the court's jurisdiction. Let this case be remanded to the appropriate trial court for further proceedings in conformity with this ruling. No pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.
Feliciano, J., on leave.

[1] Pages 12 to 19, Rollo.

[2] Pages 20 to 22, Rollo.

[3] Page 24, Rollo.

[4] Annex "D", Petition, pages 26 to 31, Rollo. The Motion for Reconsideration was filed by two individuals who were affected by the Order of the trial court. In his Manifestation dated February 9, 1978, the herein petitioner adopted the said Motion as his own.

[5] Section 2, Article IV of the 1973 Constitution, which was in effect at the time the instant Petition was filed, provides that "Private property shall not be taken for public use without just compensation." This provision has been retained in Section 9, Article III of the 1987 Constitution.

[6] Pages 32 to 34, Rollo.

[7] Pages 38 to 41, Rollo.

[8] Pages 42 to 43, Rollo.

[9] Pages 44 to 48, Rollo.

[10] Page 64, Rollo.

[11] Pages 3 to 11, Rollo.

[12] Pages 79 to 99, Rollo.

[13] Pages 100 to 129, Rollo.

[14] Page 134, Rollo.

[15] G.R. No. 59603, April 29, 1987. Mr. Chief Justice Claudio Teehankee concurred in the result while Mr.

Justice Pedro L. Yap was on leave.

[16] G.R. No. 49439, June 29, 1983, 123 SCRA 245.

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