

MUNICIPALITY OF POLOMOLOK, REPRESENTED BY MAYOR ISIDRO D. LUMAYAG, PLAINTIFF-APPELLANT, VS. TERESITA OJILLA VDA DE TUAZON AND HER CO-HEIRS, BRENDA G. TUAZON, BERLIN SALANGSANG, ...

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BORJA, J.,:

On July 28, 2014, Atty. Leonard A. Grino filed a Motion to Withdraw as Counsel[1] for the appellant stating that-

4. The undersigned counsel wish to inform this Honorable Court that he will be resigning from service as Municipal Legal Officer, effective August 01, 2014. The undersigned resignation letter to the Municipality is attached herewith as Annex "C";

5 Due to his resignation from service, undersigned counsel can no longer represent the Plaintiff-Appellant in this case and in any other cases involving the Municipality of Polomolok, hence respectfully requests that he be allowed by this Honorable Court to withdraw his appearance in this case as counsel for the Plaintiff-Appellant;

6. Henceforth, undersigned respectfully prays that future notices/processes of this Honorable Court and pleadings/motions/correspondence relative to this case be sent directly to the Plaintiff-Appellant, or to any counsel who may subsequently enter his appearance for the Plaintiff-Appellant.[2]

On October 14, 2014, the defendants-appellees through counsel filed an Urgent Motion to Dismiss Appeal averring that-

1) After the appeal was granted and the entire records of the case had been elevated to the Honorable Court of Appeals, the counsel for the plaintiff-appellant withdrew his representation and the said plaintiff-appellant was afforded time to engage the services of another counsel;

2) The plaintiff-appellant counsel's resignation was irrevocably effective as of August 1, 2014 but, up to date and for almost two months now, the defendant-appellees have neither heard nor known of any action or re-action from the said plaintiff-appellant, displaying its seeming disinterest or ostensible apathy in the pursuit of its appeal;

3) This delay in time has favoured and is further giving unwarranted favour to the plaintiff-appellant which is enjoying the full utilization of the land of the defendants-appellees who are all deprived of the fruits and benefits they derive therefrom since the expropriation and, not to say, that some of the defendants-appellees are now too old and have nowhere to derive their support for their daily sustenance except to beg from relatives;

4) The plaintiff-appellant Municipality of Polomolok is not properly represented for the reason that Mayor Isidro D. Lumayag had ceased and is no longer the Chief Executive or Mayor who was already replaced by the Hon. Honey L. Matti-Lumayag who was catapulted to office via a valid election and, who should now be the legal representative of the plaintiff-appellant Municipality;

5) The filing of the instant EXPROPRIATION case was by virtue of a Municipal Ordinance passed by the Sangguniang Bayan of the Municipality of Polomolok [Province of South Cotabato] who authorized or

empowered Mayor Isidro D. Lumayag, the Municipal Mayor, to institute the expropriation proceedings;

5a) When the Decision/Order was issued which specified the corresponding amount of Just Compensation due the owners of the lands subject of the expropriation, Mayor Isidro D. Lumayag was no longer the mayor as he was already replaced by the newly elected Mayor Honey L. Matti-Lumayag;

5b) The Sangguniang Bayan of Polomolok (South Cotabato) which directed the filing of the expropriation proceedings was never informed of the Decision/Order as on their own, the counsel and the new Mayor, instituted the instant appeal;

6) The Sangguniang Bayan of Polomolok (South Cotabato) who lead the filing of the Expropriation Proceedings have the primordial right to know the Decision/Order and, who had also the elemental right whether to appeal or not the Decision/Order of the Honorable Court a quo;

7) The Sangguniang Bayan of Polomolok was however bypassed of its power as the Decision-Making body of the Municipality of Polomolok, which act of the Mayor and counsel are evidently and definitely ultra vires.

WHEREFORE, it is most respectfully prayed that the above-entitled appeal be dismissed outright. [3]

The Court notes the Motion to Withdraw as Counsel for appellant filed by Atty. Grino on July 28, 2014. Accordingly, appellant is directed to cause the appearance of its new counsel within five (5) days from notice. Otherwise, subsequent notices of this Court will be sent directly to appellant. Moreover, before acting on the Urgent Motion to Dismiss Appeal filed by the appellees, the appellant is likewise directed to file a Comment thereon within ten (10) days from receipt of notice.

SO ORDERED.

Badelles and Singh, JJ., concur.

[1] Rollo, pp. 8-11.

[2] Id., pp. 8-10.

[3] Id., pp. 16-18.

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