

IN THE MATTER OF THE PETITION FOR DECLARATORY JUDGMENT ON TITLE TO REAL PROPERTY (QUIETING OF TITLE) PECHUECO SONS COMPANY, PETITIONER-APPELLANT, VS. PROVINCIAL BOARD OF ANTIQUE...

G.R. No. L-27038. January 30, 1970

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

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REYES, J.B.L., J.:

Appeal from the decision of the Court of First Instance of Antique (Special Civil Case No. 418) declaring as invalid a contract of exchange of land entered into by the municipality of San Jose, Antique, and the Pechueco Sons Company for lack of approval by the Provincial Governor.

Insofar as pertinent to the issue in this proceeding, the facts of the case, as stipulated by the parties, are as follows:

In a resolution dated 23 July 1963 (No. 64, series of 1963), the Municipal Council of San Jose, Antique approved the exchange of its Lot No. 1611, with an area of 1,122 square meters and assessed at P1,120.00, for the lot owned by Pechueco Sons Company[1] to be used as site of an electric plant projected by the municipality. In another resolution passed on the same day (No. 65), the municipal mayor was authorized to sign the necessary contract, for and in behalf of the municipality.

On 4 December 1963 the municipal mayor, representing the municipality of San Jose, Antique, and the representative of Pechueco Sons Company signed the deed, by virtue of which the municipality conveyed to the latter its Lot No. 1611 by way of exchange for Lot No. 1303 belonging to the company. This deed was duly presented to the Office of the Register of Deeds for registration on 10 December 1963, but not definitively recorded until 25 January 1965.

On 11 February 1964, however, the Provincial Board of Antique, by its resolution No. 122, series of 1964, disapproved Resolution No. 64 of the Municipal Council of San Jose relative to the exchange of lots, on the ground that the Pechueco lot, being located in the poblacion, is an unsuitable site for the proposed electric plant, since the exhaust, noise and hazards accompanying the operation of the plant machinery would be dangerous to public safety and health. On 18 February 1964, the San Jose Municipal Council passed another resolution urging reconsideration of the action taken by the Provincial Board. Apparently because no action by the board seemed to be forthcoming, on 25 January 1965 Pechueco Sons Company instituted declaratory relief proceedings in the Court of First Instance of Antique (Special Civil Case No. 418) to secure nullification of Resolution No. 122 of the Provincial Board of Antique, for a declaration of its ownership of Lot No. 1611, and to restrain therein respondent municipality from asserting the latter's supposed right of ownership over the said lot. On the same day, 25 January 1965, the deed of exchange was finally registered with the Register of Deeds as regards the transfer of Lot No. 1303 of Pechueco Sons Company to the municipality of San Jose, and, as a consequence, TOT No. N-5169 was issued in the name of said municipal corporation. Lot No. 1611, however, remained registered in the name of the municipality, the owner's title thereto not having been as yet reconstituted.

While the case was pending in court, the Provincial Board passed Resolution No. 57, dated 2 February 1965, conditionally approving the contract of exchange between the municipality of San Jose and the Pechueco Sons Company, provided the Pechueco lot should be acceptable to the Rural Electrification Administration, the Secretary of Finance and the Executive Secretary as site of the proposed electric plant. Apparently, the condition thus imposed was not met by the parties, for on 16 February 1965 the Provincial Board approved another resolution passed by the municipal council of San Jose, this time requesting the Provincial Governor to donate to the municipality a 10,000-square meter piece of land to be used as site of the electric plant to be constructed.

In a letter dated 12 October 1965, the Provincial Governor formally informed the municipal council of San Jose of the disapproval of the deed of exchange entered into by the municipality with Pechueco Sons Company. On 13 October 1965, the said Governor entered appearance as intervenor in the declaratory relief proceeding, which intervention was allowed by the court on 24 November 1965.

On 30 August 1966, on the basis of the stipulation of facts by the parties, the court rendered Judgment in favor of the respondents, as stated at the beginning of this opinion. Hence, this appeal interposed by petitioner Pechueco Sons Company.

Upon the aforesaid facts, the issue clearly revolves around the effect of the disapproval by the Provincial Board of Antique of the contract of exchange of land between the municipality and herein appellant authorized by Resolution No. 64, series of 1965, of the municipal council of San Jose.

In this connection, Section 2196 of the Revised Administrative Code provides:

"Section 2196. Execution of deeds. -- When the government of a municipality is party to a deed or an instrument which conveys real property or any interest therein or which creates a lien upon the same, such deed or instrument shall be executed on behalf of the municipal government by the mayor, upon resolution of the council, with the approval of the provincial governor."

Taking the above-quoted provision in the light of Article 1356 of the Civil Code,[2] the question that must first be determined concerns the nature of that requisite approval: is the approval of the contract by the governor a statutory formal requirement for its validity?

Espousing the negative view, appellant Company refers to our ruling in the case of *Municipality of Camiling vs. Lopez* (99 Phil. 187) in support of its allegation that the gubernatorial approval mentioned in Section 2196 of the Revised Administrative Code does not constitute an essential element for the validity of the conveyance of realty by the municipality; that the lack of such imprimatur would not nullify an otherwise valid and perfected contractual agreement. In - deed, this Court, explaining the nature of this power in that cited case, said:

"... The approval by the provincial governor of contracts entered into and executed by a municipal council, as required in section 2196 of the Revised Administrative Code, is part of the system of supervision that the provincial government exercises over the municipal governments. It is not a prohibition against municipal councils entering into contracts regarding municipal properties subject of municipal administration or control. It does not deny the power, right or capacity of municipal councils to enter into such contracts; such power or capacity is recognized. Only the exercise thereof is subject to supervision by approval or disapproval, i. e., contracts entered in pursuance of the power would ordinarily be approved if entered into in good faith and for the best interests of the municipality; they would be denied approval if found illegal or unfavorable to public or municipal interest. The absence of the approval, therefore, does not per se make the contracts null and void."

In other words, as regard the municipal transactions specified in Section 2196 of the Revised Administrative Code, the Provincial Governor has two courses of action to take -- either to approve or disapprove the same. And since absence of such approval does not necessarily render the contract entered into by the municipality null and

void, the transaction remains voidable until such time when by subsequent unfavorable action of the governor, for reasons of public interest,[3] the contract is thereby invalidated.

Undisputably, the resolution of the municipal council authorizing the transaction involved herein was disapproved by the Provincial Board on 11 February 1964 on the ground of unsuitability of the selected lot as site of the electric plant to be erected. In short, the disapproval of the resolution by the Provincial Board was for reasons of public interest, health and safety. It is claimed for appellant company, however, that such disapproval is ultra vires and did not prevent its acquisition of the ownership of the municipality's Lot No. 1611, for the Provincial Board can declare a resolution of the municipal council invalid only on one ground -- lack of authority of said body to pass the same.[4] In the present case, it is added, there is no question that the resolution authorizing the exchange of lots as within the competence of the municipal council of San Jose to enact.

This contention of appellant cannot be sustained. A reading of the invoked cases reveals that the limitation placed upon disapproval power of the provincial boards to review and pass upon the legality of municipal proceedings Was conferred by Section 2233 of the Revised Administrative Code in general terms. The last paragraph of said section provides as follows:

"If the board should in any case find that any resolution, ordinance, or order, as aforesaid, is beyond the powers conferred upon the council or mayor making the same, it shall declare such resolution, ordinance, or order invalid, entering its action upon the minutes and advising the proper municipal authorities thereof. The effect of such action shall be to annul the resolution, ordinance, or order in question, subject to action by the Secretary of the In - tenor (now Executive Secretary) as hereinafter provided."

Not only is the provision in question couched in general terms, but were such power not limited to ultra vires municipal action, the result would be that the provincial board would be running the affairs of the municipalities under its supervision. By contrast, Section 2196 of the devised Administrative Code (heretofore quoted) expressly speaks of the execution of deeds of conveyance of real property and is unmistakably limited to that class of transactions. It is a familiar rule of statutory construction that specific provisions control general ones (Butuan Sawmill, Inc. vs. Bayview Theater Co., 96 Phil. 139, and cases cited therein; Cassion vs. Banco Nacional Filipino, 89 Phil. 560), and hence, Section 2196 of the Administrative Code must be deemed an exception to the general rule of Section 2233. Wherefore, the pronouncement made in the Manantan and Gabriel cases, construing the latter provision, cannot be invoked nor applied to action taken by the provincial Governor under Section 2196 of the Administrative Code, that requires approval by the Governor of conveyances of municipal real estate without limiting or specifying the reasons for his refusal to concur therein.

It is true that the disapproval of the contract of exchange was effected in this case by the Provincial Board and not by the Governor. But any objection on this ground would be untenable. In the first place, the Governor herself was part of the Provincial Board and actually participated in the passage of the resolution of disapproval. The said Board resolution, disapproving the exchange of lots and showing that the Governor took part there-in, constitutes already the disapproval of the contract by the latter, there being no provision requiring said official to embody his unfavorable action in a particular instrument. Were the action favorable, there would be need for affixing the Governor's assent in the deed of conveyance. Secondly, there is no gainsaying the fact that the municipal council of San Jose and the private parties concerned, including herein appellant, were duly, informed and furnished with copies of the resolution of disapproval by the Provincial Board[5] and, as of 11 February 1964, they were already fully apprised of the stand of the provincial government.

Considering that the contract between the municipality of San Jose and appellant was finally registered only on 25 January 1965, or after its disapproval by the Provincial Board, it is beyond doubt that such registration did not confer any right at all on appellant. By then, the municipal council was without authority to contract with

appellant on the lots subject of exchange. Likewise, the fact that the municipality accepted appellant's payment of real estate tax on Lot No. 1611 for 1964 and 1965, or that it has expended some amount in reconstituting the title of said Lot No. 1611, does not work to estop the municipality from maintaining its claim of ownership over the property. As this Court aptly stated:

"The doctrine of estoppel cannot be applied as against a municipal corporation to validate a contract which it has no power to make, or which it is authorized to make only under prescribed conditions, within prescribed limitations, or in a prescribed mode or manner, although the corporation has accepted the benefits thereof and the other party has fully performed his part of the agreement, or has expended large sums in preparation for performance. A reason frequently assigned for this rule is that to apply the doctrine of estoppel against a municipality in such case would be to enable it to do indirectly what it cannot do directly. (San Diego vs. Municipality of Naujan, L-9920, 29 February 1960, cited in Favis vs. Municipality of Sabañgan, L-26522, 27 February 1969, 27 SCRA 92; see also City of Manila vs. Tarlac Development Corporation, L-24557, L -2 44 69 6 L-24481, 31 July 1968, 24 SCRA 466).

WHEREFORE, finding no error in the Judgment of the lower court, in so far as it declares the exchange of lots invalid, the same is hereby affirmed, with costs against the appellant.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Lot No. 1303, Cadastral Survey of San Jose, with an area of 3,627 square meters, more or less, and assessed at P240.00.

[2] "ART. 1356. Contracts shall be obligatory, in whatever form they may have been entered into, provided all the essential requisites for their validity are present. However, when the law requires that a contract be in some form in order that it may be valid or enforceable, or that a contract be proved in a certain way, that requirement is absolute and indispensable."

[3] Municipality of Camiling vs. Lopez, *supra*.

[4] Manantan vs. Municipality of Luna, 82 Phil. 848; Gabriel vs. Provincial Board, 50 Phil. 686.

[5] Annex "A", page 44, CFI record.

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