

**PEOPLE OF THE PHILIPPINES, PETITIONERS, VS. THE CITY COURT,
BRANCH III OF GENERAL SANTOS CITY, PRESIDED OVER BY THE
HONORABLE CITY JUDGE ANDRES O. LORENZO, ERMILINA
COLLADO VDA....**

G.R. No. L-49019. April 10, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari of the order of the respondent City Court, Branch 3 of General Santos City which granted the motion to quash filed by private respondents.

The antecedent of the case are as follows:

On August 17, 1978, private respondents were charged before respondent court with violation of Presidential Decree No. 772 PENALIZING SQUATTING AND OTHER SIMILAR ACTS, in an information which reads:

"That on or about the year 1968 and continuously until the present, in the City of General Santos, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully and feloniously, by means of force and/or taking advantage at the tolerance of the landowner, occupy and possess without the consent and against the will of the owner, the land owned by Jorge P. Royeca and titled in his name under Transfer Certificate of Title No. T-12289 which land is more particularly described as lot 4743-B, Psd-61985 containing an area of 7,724 square meters, located at Barrio Dadiangas (KAWA), General Santos City, by then and there constructing their houses thereon without any building permit and notwithstanding repeated demands on said accused to remove their houses and vacate the land, said accused failed and refused to do so, in violation of Presidential Decree No. 772.

"CONTRARY TO LAW." (pp. 1-2, Records)

From August 24 to 30, 1978, some private respondents filed with respondent court motions to quash based on various grounds.

On August 31, 1978, respondent court granted the motion to quash and dismissed the case in an order which partially reads:

"x x x. Presidential Decree No. 772 is not an ex-post facto law and the crime penalized therein is not a continuing crime. x x x. There being no law before August 20, 1975 penalizing the act herein complained of, then there could have been no criminal resolution in 1968.

"The prosecution further argues that the language of the preamble of PD 772 clearly shows the intention of the government to penalize squatting who, after August 20, 1975, continue occupying or possessing public or private lands they began occupying or possessing before such date. The Court believes otherwise x x x.' x x x a reading of Section I of the decree which says 'Any person who, with the use of force, intimidation or threats or taking advantage of the absence or tolerance of the landowner, succeeds in occupying or possessing the

property of the latter against his will for residential, commercial or any other purposes, shall be punished by an imprisonment x x x' would convey a prospective law. When the law says, 'succeeds in occupying or possessing' it is clear that it means the effective entry of the squatter --- in this case 1968. The use of the present tense of the verb succeed expresses the intention of the lawmaker to punish future occupations. When did the accused succeed in occupying the property? The inevitable answer is 1968. On August 20, 1975 they did not succeed anymore. They already succeeded in 1968." (p. 52, Records)

Hence, this petition was filed by the People thru the City Fiscal of General Santos City seeking the reversal of the questioned order and the reinstatement of the criminal case in court for further proceedings. Petitioner submits that PD No. 772, which took effect on August 20, 1975, can be applied to private respondents, who were occupying and possessing the titled land of Dr. Jorge P. Royeca on August 20, 1975 up to the present, in continuation of their occupancy and possession which began in the year 1968.

When required by this Court to comment on the petition, the private respondents and the Solicitor General filed their respective comments. In his comment, the Solicitor General agrees with the view of the City Fiscal and submits a recommendation that the petition be granted and the case be ordered reinstated for further proceedings until termination.

In a resolution dated July 30, 1987, this Court Resolved to consider the case as a special civil action for certiorari (p. 71, Rollo). The applicable law then on jurisdiction is Section 17, Judiciary Act, as amended by Section 2 of R.A. No. 5440, approved on September 9, 1968, which provides that this Court shall exercise original and concurrent jurisdiction with Courts of First Instance (now Regional Trial Courts) in petitions for the issuance of writs of certiorari, prohibition, mandamus, quo warranto and habeas corpus.

We agree with the view of the petitioner and the Solicitor General that squatting is a continuous offense. Even if the illegal occupancy by a person of the property of another commenced prior to the promulgation of Presidential Decree No. 772 on August 20, 1975, since it continued up to the filing of the information and up to this time, such person can be held liable under the law (*Dacutanan v. People*, G.R. 83772, August 29, 1990, Minute Resolution). In the case at bar, the facts in the information allege that in 1968 and continuously until August 17, 1978 when the information was filed, the private respondents had been occupying and possessing the titled property of Royeca against his will by means of force and/or taking advantage of the tolerance of the landowner. Hence, Presidential Decree No. 772 is applicable to private respondents and they can be charged in the information with violation of the said law.

ACCORDINGLY, the petition is GRANTED and the assailed order of respondent court dated August 31, 1978 is REVERSED and SET ASIDE. Respondent court is ordered to reinstate the case for further proceedings until termination.

SO ORDERED.

Narvasa, C.J., Cruz, and Grino-Aquino, JJ., concur.
Bellosillo, J., on leave.

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