

GREGORIO VERZOSA, PLAINTIFF AND APPELLANT, VS. CITY OF BAGUIO AND ALFONSO TABORA, DEFENDANTS AND APPELLEES.*G.R. No. L-13546. September 30, 1960*

Ponente: PADILLA, J.

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This appeal from a judgment of the Court of First Instance of Baguio in case No. 513 dismissing the plaintiff's complaint with costs against him, was certified to this Court by the Court of Appeals pursuant to the provisions of section 17, Republic Act No. 206, as amended, on the ground that one of the issues raised involves the validity of Ordinance No. 195, as amended by Ordinance No. 200, series of 1954, of the city of Baguio. The appellant does not dispute the findings of fact made by the trial court and in his brief raises only questions of law.

The facts, as found by the trial court, are:

Plaintiff was the owner of a building known as the Verzosa Bldg., located at No. 1 Session Road, City of Baguio. Dr. Ernesto Abellera is the owner of the land on which the building stood. The Verzosa Building was built under a temporary permit and was subsequently declared a fire hazard under Ordinances 195 and 200. On December 31, 1954, the City of Baguio was about to take action for the demolition of this building. Plaintiff was then in the United States. His wife, Estelita F. Verzosa, stepped into the breach and brought action against the City to stay the demolition of the building which was obviously conjugal property of the Verzosa spouses. She brought an action known as Civil Case No. 500. The City of Baguio entered into compromise with Mrs. Verzosa whereby she agreed to demolish her building by February 28, 1955, on condition that city services would be restored; her tenants allowed to reopen their stores and also would dismiss Case No. 500. The City of Baguio faithfully complied with this agreement. But when demolition time came, instead of preparing to comply, Plaintiff (who had returned to Baguio from the United States in the meantime) filed this present action praying for an injunction to stay the demolition. In effect, Plaintiff repudiated the compromise entered into by his wife in Case No. 500 on the ground that he had never authorized her to file this kind of an action and that she did not hire the lawyers he had suggested. This Court denied his petition for a writ of preliminary injunction, and while Plaintiff's motion for reconsideration to the same was pending, Defendant City Mayor, on orders from President Magsaysay, ordered the immediate demolition of the building. Plaintiff then amended his complaint to include as defendants the City Mayor as well as President Magsaysay. This Court held that it had no jurisdiction to bring President Magsaysay within its sphere and allowed the case to continue against the City of Baguio and its Mayor as the only two Defendants. * * * (pp. 69-71, record on appeal).

The trial court refrained from passing upon the constitutionality and validity of the ordinances and held that the appellant's wife in entering into an agreement with the appellee, the City of Baguio, to demolish the building in question on or before 28 February 1955 and to dismiss case No. 500 pending before the Court of First Instance of Baguio, acted as a gestor of her absent husband, then on a business trip to the United States, which agreement was binding upon him.

Section 2553 (h) of the Revised Administrative Code empowers the city council of Baguio, by ordinance or resolution, "To establish fire limits, and regulate the kinds of buildings and structure that may be erected within

said limits, and the manner of constructing and repairing the same," and section 2557 (d) of the same Code authorizes the City Engineer, subject to the approval of the Mayor, "to cause buildings, dangerous to the public, to be made secure or torn down, * * *."

The building in question was erected on a lot owned by the spouses Ernesto L. M. Abellera and Angela Cabrera (Exhibit C) situate along Session Road, Baguio City, and¹ declared by the City Council as within the "fire limits." It was formerly owned by John L. Wong who sold it to Lupo-Palasi (Exhibit B). On 12 October 1950 the appellant acquired it by purchase from Lupo Palasi (Exhibit A). The temporary permit to construct the building in question, issued by the acting City Engineer in favor of Milagros Sanchez Vda. de Wong on 20 October 1945, provides "that applicant will remove all improvements made in said lot within ten (10) days notice from this Office" (Exhibit 20.) The appellant is, therefore, charged with , knowledge of this condition when he acquired the building from the previous transferee, Lupo Palasi, and cannot now complain that he was deprived of his property without due process of law.

In view of the foregoing, we need not pass upon the validity and binding effect, of the compromise agreement entered into by the appellant's wife for the demolition of the building on or before 28 February 1955 and constitutionality of Ordinance Nos. 195 and 200, series of 1954, of the city of Baguio.

The judgment appealed from is affirmed, with costs against the appellant.

Paras, C. J., Bengzon, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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