

**REPUBLIC OF THE PHILIPPINES, PETITIONER-APPELLEE, VS.
POLICARPIO GONZALES AND AUGUSTO JOSUE,
RESPONDENTS-APPELLANTS.**

G.R. Nos. L-45338-39. July 31, 1991

Ponente: FELICIANO, J.

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FELICIANO, J.:

The Republic of the Philippines is the owner of two (2) parcels of land situated in Tañong, Malabon, Metro Manila and designated as Lots 1 and 2 of Plan MR-1018-D. Lot 1 which adjoins F. Sevilla Boulevard has an area of 605 square meters; Lot 2, an interior lot abutting F. Sevilla Boulevard only on its northern portion, is 664 square meters in area. This piece of property was formerly a deep swamp until the occupants thereof, among them appellants Policarpio Gonzales and Augusto Josue, started filling it. Each of appellants who are brothers-in-law, constructed a mixed residential and commercial building on the interior part of Lot 2.

On 14 April 1955, then President Ramon Magsaysay issued Proclamation No. 144, entitled "Reserving for Street Widening and Parking Space Purposes Certain Parcels of the Public Domain Situated in the Municipality of Malabon, Province of Rizal, Island of Luzon." [1] Lots 1 and 2 were specifically withdrawn from sale or settlement and reserved for the purposes mentioned in the Proclamation.

The Municipal Council of Malabon then passed Resolutions [2] authorizing the filing of ejectment cases against appellants so that Proclamation No. 144 could be implemented. On 23 June 1955, the Assistant Provincial Fiscal of Pasig, Rizal filed separate complaints against appellants for the recovery of the portions of Lot 2 they were occupying.

Appellants disputed the right of the Government to recover the land occupied by them. In his answer, Policarpio Gonzales claimed (1) that Lot 2 was covered by a lease application, and later a miscellaneous sales application, filed before the Bureau of Lands; (2) that he had a municipal permit to construct a building as well as a business license duly issued by the Office of the Mayor of Malabon; and (3) that the lot occupied by him was not needed by the Municipality of Malabon in the widening of F. Sevilla Boulevard. The defenses interposed by Augusto Josue were substantially similar to those raised by Policarpio Gonzales.

Upon agreement of the parties, the separate cases were tried jointly. On 28 January 1967, the trial court, presided over by then Judge Cecilia Munoz-Palma, rendered a decision with the following dispositive portion:

"WHEREFORE, finding the complaints to be justified and meritorious, this Court orders defendants Policarpio Gonzales and Augusto Josue and/or their agents, representatives, successors-in-interest to vacate Lots 1 and 2 of Plan MR-1018-D as described in the complaint, and to remove at their expense their respective buildings and/or improvements erected and existing on said lots, and restore the possession thereof to the Republic of the Philippines, and to pay the corresponding costs in the respective cases.

SO ORDERED." [3]

Appellants appealed to the Court of Appeals. In a Resolution dated 1 December 1976, the Court of Appeals, speaking through Mr. Justice Luis B. Reyes, certified the consolidated cases to this Court since the appeals raised only a question of law, that is, whether Presidential Proclamation No. 144 was valid or not.[4]

Although appellants filed separate briefs before the Court of Appeals, their common defense was presented and discussed in very similar language:

"Stripped of surplusage, it is respectfully submitted that Proclamation No. 144 dated April 14, 1955 of the President of the Philippines, more particularly that portion which withdrew from sale and settlement the land in question and reserving [the] same for parking space purposes, is not in accordance with Section 83 of the Public Land Law, Commonwealth Act No. 141, and therefore, invalid. Under said law "parking space" is not one of those reservations for public benefit which the President of the Philippines may designate by proclamation from any tracts of land of the public domain. The reservation for "parking lots" under the presidential proclamation in question is not required by public interest, nor it is for the benefit of the public, because only those who have cars can use the parking lot. Public use or public benefit must be for the general public and not a use by or for particular persons. The essential feature of public use is that it should not be confined to privileged individuals, but open to the general public. This is not so of the parking space as contemplated by the presidential proclamation in question." (Citations omitted.)

Section 83 of Commonwealth Act No. 141, known as the Public Land Law provides:

"Upon the recommendation of the Secretary of Agriculture and Commerce [now Secretary of Environment and Natural Resources], the President may designate by proclamation any tract or tracts of land of the public domain as reservation for the use of the Commonwealth of the Philippines [now Republic of the Philippines] or of any of its branches, or of the inhabitants thereof, in accordance with regulations prescribed for this purpose, or for quasi-public uses or purposes when the public interest requires it, including reservations for highways, rights of way for railroads, hydraulic power sites, irrigation systems, communal pastures or leguas comunales, public parks, public quarries, public fishponds, workingmen's village and other improvements for the public benefit." (Underscoring supplied)

Appellants urge this Court to declare Proclamation No. 144 invalid. They contend that the setting aside of the lots occupied by them for parking space purposes does not redound to the public benefit as required under Section 83 of the Public Land Act. They claim that only certain privileged individuals, i.e., those who have cars, can avail of the parking facility without any advantage accruing to the general public.

As observed by the trial court, Proclamation No. 144 was issued by then President Ramon Magsaysay in response to several resolutions passed by the Municipal Council of Malabon, Rizal, which had become particularly aware of the increasing vehicular traffic and congestion along F. Sevilla Boulevard.[5] The Municipal Council had proposed to widen F. Sevilla Boulevard and at the same time, to reserve an area for parking space to ease up traffic problems, in anticipation of the completion of the then proposed market and slaughterhouse located to the west of F. Sevilla Boulevard. In this day and age, it is hardly open to debate that the public has much to gain from the proposed widening of F. Sevilla Boulevard and from establishment of a municipal parking area. Indiscriminate parking along F. Sevilla Boulevard and other main thoroughfares was prevalent; this, of course, caused the build up of traffic in the surrounding area to the great discomfort and inconvenience of the public who use the streets. Traffic congestion constitutes a threat to the health, welfare, safety and convenience of the people and it can only be substantially relieved by widening streets and providing adequate parking areas.

Under the Land Transportation and Traffic Code, parking in designated areas along public streets or highways is allowed[6] which clearly indicates that provision for parking spaces serves a useful purpose. In other jurisdictions where traffic is at least as voluminous as here, the provision by municipal governments of parking

space is not limited to parking along public streets or highways. There has been a marked trend to build off-street parking facilities with the view to removing parked cars from the streets. While the provision of off-street parking facilities or carparks has been commonly undertaken by private enterprise, municipal governments have been constrained to put up carparks in response to public necessity where private enterprise had failed to keep up with the growing public demand. American courts have upheld the right of municipal governments to construct off-street parking facilities as clearly redounding to the public benefit.[7]

Appellants, however, allege that the benefits, if any, that may be derived from the proposed street-widening and parking space will be confined to people who have cars, hence there would be lacking the essential feature of property reserved for public use or benefit. Appellants would restrict property reserved for public use or benefit to include only property susceptible of being utilized by a generally unlimited number of people. The conception urged by appellants is both flawed and obsolete since the number of users is not the yardstick in determining whether property is properly reserved for public use or public benefit. In the first place, Section 83 above speaks not only of use by a local government but also of "quasi-public uses or purposes." To constitute public use, the public in general should have equal or common rights to use the land or facility involved on the same terms, however limited in number the people who can actually avail themselves of it at a given time.[8] There is nothing in Proclamation No. 144 which excludes non-car-owners from using a widened street or a parking area should they in fact happen to be driving cars; the opportunity to avail of the use thereof remains open for the public in general.

Besides, the benefits directly obtained by car-owners do not determine either the validity or invalidity of Proclamation No. 144. What is important are the long-term benefits which the proposed street widening and parking areas make available to the public in the form of enhanced, safe and orderly transportation on land. This is the kind of public benefit envisioned by the Municipal Council of Malabon, Rizal and which was sought to be promoted by the President in issuing Proclamation No. 144.

We believe and so hold that Proclamation No. 144 was lawful and valid.

Proclamation No. 144 specifically provided that the withdrawal of Lots Nos. 1 and 2 shall be subject to existing private rights, if any there be. Prior to the issuance of Proclamation No. 144, appellants had applied for miscella-neous sales applications over the lots respectively occupied by them. Insofar as appellant Policarpio Gonzales is concerned, it is not disputed that he had acknowledged the ownership of the National Government of the land applied for by him.[9] Although not expressly stated, Augusto Josue must be deemed to have similiary admitted that ownership by the National Government since he filed a miscellaneous sales application with the Bureau of Lands, an agency of the Government, an application which can only be filed in respect of tracts of public land, not private land.

The miscellaneous sales application, however, of appellant Policarpio Gonzales had not been approved by the Bureau of Lands at the time Proclamation No. 144 was issued; the land therefore retained its character as land of the public domain. Upon the other hand, the miscellaneous sales application of appellant Augusto Josue had already been rejected in an Order of the Director of Lands dated 8 January 1954.[10] Accordingly, no private rights had accrued and become vested in appellants. In both cases, the lots remained public lands and were in fact subject to the free disposition and control of the Government.

Appellants allege having built mixed residential and commercial buildings on Lot 2. The evidence of record discloses that appellants had secured the appropriate municipal permits or licenses therefor, that is, for the construction of said buildings as well as the carrying on of business therein. However, since the lease, sale or any other form of concession or disposition and management of lands of the public domain was directly under the

executive control of the Director of Lands,[11] and not of local government officials, the Malabon Municipal Mayor must be held to have exceeded his authority in allowing the use of lands of the public domain to appellants by constructing thereon commercial and residential use buildings, or any other kind of building for that matter.

Sometime after Proclamation No. 144 was issued by the President, appellants brought their predicament to the attention of the President. The then Presidential Complaints and Action Committee ("PCAC") conducted an investigation on the basis of which it eventually recommended the exclusion from the reservation of the lots affected, in line with the "Land for the Landless" policy of President Magsaysay's administration.[12] The then Secretary of Agriculture and Natural Resources similarly recommended the exclusion of the portion of Lot 2 occupied by appellants and forwarded to the Office of the President a draft of a proposed amendment of Proclamation No. 144 specifically excluding Lot 2 from the scope of application thereof. The amendment, however, remained merely a proposal for failure on the part of the President of the Philippines to act favorably thereon.

WHEREFORE, the Petition for Review is hereby DENIED for lack of merit. The Decision dated 28 January 1967 of then Court of First Instance of Rizal, Branch 1 is hereby AFFIRMED. Costs against appellants.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Davide, Jr., JJ., concur.

[1] Record, pp. 54-55.

[2] Id., pp. 35 and 50.

[3] Record on Appeal of petitioner Augusto Josue filed before the Court of Appeals, pp. 42-48.

[4] Rollo, pp. 177-181.

[5] Record, pp. 52 and 53.

[6] See Sections 46 and 52 of the Land Transportation and Traffic Code.

[7] See, e.g., *Denihan Enterprises vs. O'Dwyer*, 97 N.Y.S. 2d 326 (1950); *Ermels vs. City of Webster City, Iowa*, 71 N.W. 2d 911 (1955).

[8] Cf. *US v. Tan Piaco*, 40 Phil. 853 (1920); *Iloilo Ice and Cold Storage Co. v. Public Utility Board*, 44 Phil. 551 (1923); *Palmyra Telephone Co. vs. Modesto Telephone Co., et al.*, 167 N.E. 860 (1929).

[9] TSN, 7 February 1964, pp. 2-3.

[10] Record, pp. 58-59.

[11] Commonwealth Act No. 141, Section 4.

[12] Record, pp. 28-29.

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