

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CIRILO P. BAYLOSIS, ET AL., DEFENDANTS AND APPELLANTS.***G. R. No. L-6191. January 31, 1955*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/654cc040ced4/>**MONTEMAYOR, J.:**

These expropriation proceedings initiated in the Court of First Instance of Batangas by the Bureau of Lands in behalf of the Republic of the Philippines, involve seven lots formerly a part of the Hacienda LIAN or LIAN ESTATE in the municipality of Lian, Batangas, which estate formerly belonged in its entirety to the Colegio de San Jose Inc., a Jesuit corporation, under Original Certificate of Title No. 15521. It seems that the Hacienda or rather the income therefrom was used for the support and education of young Filipinos studying for the priesthood. The Hacienda originally had an extension of several thousand hectares and was occupied and cultivated by lessees and by tenants (inquilinos). About the year 1931 the religious authorities decided to break up this big estate as far as possible into small lots averaging one hundred hectares each and sell it to bona fide lessees, the price to be payable on the installment plan.

One of these lessees was Nelson V. Sinclair. He had occupied under a contract of lease a portion of this estate since 1928, cultivating a portion by means of tractors and the remainder by means of aparceros under yearly contracts such as Exhibits 4, 4-A, 4-B (Baylosis).

In 1937 he bought from the Lian Estate the portion leased to him with an approximate area of 87 hectares. Subsequently, this portion was subdivided into seven lots, to wit: 306-YYYY, 306-BBBB, 306-CCCC, 306-DDDD, 306-EEEE, 306-Z and 306-LL. In 1947 Sinclair sold lot 306-YYYY with an area of about 25 hectares and 306-BBBB with an area of about 17 hectares to Cirilo P. Baylosis for P40,000 and P28,000, respectively, although the corresponding transfer certificates of title were not issued until 1948 and 1949, respectively. After the purchase, Cirilo P. Baylosis subdivided the two lots into small parcels and sold the same to his co-defendants in this case, except Sinclair and Luis Baylosis. In 1950 Sinclair sold to Cirilio P. Baylosis lot 306-CCCC with an area of about 13 hectares and lot 306-DDDD with an area of about 10 hectares for P39,000. (See Exhibit 16-Baylosis)

About October 7, 1946, some 68 persons claiming to be tenants and occupants of the parcels originally owned by Sinclair addressed a petition in Tagalog to the Rural Progress Administration, a rough translation in English of which follows:

We, the undersigned, are all workers in this land for a long time, and were the ones who cleared the place of its big trees.

That is why we are requesting the Government to buy the land and we shall pay the instalment to the Government."

Much later, on the basis of the petition, the Rural Progress Administration through its Manager Faustino Aguilar, on May 4, 1948, addressed a letter to Sinclair reading as follows:

"May 4, 1948

Mr. N. V. Sinclair
181 David, Escolta
Manila

Sir:

There has been received in this Office a petition for the acquisition by the Government for resale to the tenants of the following six lots in Binubusan, owned and/or administered by you:

Lot N. 306—CCCC under tax declaration No. 852
Area—13.9125 hectares.
Kind—Irrigated agricultural land.
Assessed value—P6,400.00

Lot No. 306—Z under tax declaration No. 858
Area—8.7762 hectares.
Kind—7.7762 hectares irrigated agricultural land 1.0000 hectare
—riceland.
Assessed value—P4,040.

Lot No. 306—YYY under tax declaration No. 864
Area—25.0159 hectares.
Kind—Irrigated agricultural land.
Assessed value—P9,760. :

Lot No. 306—BBBB under taof declaration No. 365
Area—17.9827 hectares.
Kind—Irrigated agricultural land.
Assessed value—P7,010

Lot No. 306—EEEE under tax declaration No. 866
Area—10.4955.
Kind—Irrigated agricultural land.
Assessed value—P4,090.

Lot No. 306—LL under tax declaration No. 350
Owner— Colegio de San Jose.
Administrator—N. V. Sinclair.
Area—14.3208 hectares.
Kind—Fish pond.
Assessed value—P5,730.

The reason given by the tenants in presenting their petition is that your relation with them is not altogether too satisfactory having on previous occasion tried to disregard the 70-30 crop sharing basis, although later have yielded to observance thereof upon the insistence of the tenants. They likewise complain that you are planning to eject them, a plan which if carried out, will result in untold sufferings on their part, without mentioning the pain of leaving the premises which they have occupied and tilled since time immemorial.

Before we take action on their petition we will appreciate your favor of informing us for your willingness to sell said parcels of land, in accordance with the provisions of Commonwealth Act No. 539 and the conditions of the sale.

Respectfully,

(Sgd.) Faustino Aguilar
Manager"

On May 7th, Sinclair wrote the following answer:

"May 7, 1948

Rural Progress Administration
Department of Justice Building
Walled City, Manila

Attention: Mr. Faustino Aguilar, Manager

Gentleman:

This will acknowledge receipt today of your communication dated May 4th, with reference to the petition for your Administration to purchase lands of the writer located in barrio Binubusan, municipality of Lian, Province of Batangas.

The reasons given by the petitioners are not true and it will be a pleasure to acquaint you with the facts concerned with each of the lots specified.

This information will be assembled at the earliest possible time and in order to expedite its submission to your good selves, your letter is being forwarded to my representative at Lian.

In the meantime, it is requested that you kindly allow me sufficient time to submit the true facts pertaining to each lot before you take action on this Petition.

Respectfully,

(Sgd.) N. V. Sinclair
Owner

On November 15, 1958, Manager Aguilar again wrote to Sinclair as follows:

"November 15, 1948

Mr. N. V. Sinclair
181 David Escolta
Manila

Sir:

In connection with your letter dated May 7, 1948, advising us that you will forward to this Office under separate cover information regarding your refusal to sell to certain petitioners your lands in Binubusan, Lian, Batangas, known as lot Nos. 306-CCCC; 306-Z; 306-YYY; 306-BBBB; 306-EEE and 306-LL, please be informed that up to the present we have not as yet received said letter. As it is our desire to apprise the petitioners of the same, the favor of furnishing early information from you will be appreciated.

Likewise the petitioners again called at this Office and have made an offer to buy said lands at P600 per hectare on a 10-year period to pay. If the said price is acceptable to you, please advise us accordingly.

Respectfully,

(Sgd.) Faustino Aguilar
Manager"

Thereafter, having been informed that Sinclair had sold his parcels or some of them to one Cirilo P. Baylosis, Manager Aguilar on January 17, 1949, wrote the following letter:

"January 17, 1949

Atty. Cirilo P. Baylosis
Balayan, Batangas

Sir:

We have been informed that you bought the lands of N. V. Sinclair at Binubusan, Lian, Batangas, known as lots 306-YYY; 306-LL; 306-Z; 306-CCCC; 306-BBBB and 306-EEEE and that you are at present taking all the crops thereon including the share due to the tenants with the help of constabulary soldiers. If the report is true, we request that you refrain from taking such step in order to avoid any untoward incident that may arise therefrom.

The lands which you bought are the subject of a petition for acquisition and resale to the tenants thereof which is pending final action by this Office.

Respectfully,

(Sgd.) Faustino Aguilar
Manager"

Thereafter, on February 6, 1951, the Republic of the Philippines filed the original complaint for expropriation against Cirilo P. Baylosis and Sinclair, which complaint was twice amended, the second amended complaint being filed on April 16, 1952, so as to include all the persons to whom Sinclair and Cirilo P. Baylosis had sold portions of the lots sought to be expropriated.

On February 14, 1951, the Court of First Instance of Batangas after hearing the parties issued an order placing the plaintiffs in possession of the property sought to be expropriated after plaintiff had made a deposit of P27,105.22. On February 24, 1951, the tenants and occupants in whose behalf the expropriation proceedings were instituted moved to intervene, accompanying their motion with a complaint in intervention. Believing that their interests were sufficiently taken care of and defended by the plaintiff, the trial court deemed said intervention unnecessary. The defendants numbering about 21 filed 9 separate motions to dismiss based on several grounds, among which are: that the expropriation was being made not for public use; that the defendants would be deprived of their property without due process of law; that the plaintiff has no right under the guise of expropriation to take the property of a private citizen and deliver the same to another private individual; that the Constitution authorizes the expropriation of big landed estates but not of small areas like these owned by the defendants; that the present expropriation was intended to benefit only about 44 persons who do not represent the public and that many of said persons already have lands of their own; that the various defendants individually own only small portion of the property under expropriation; that the second amended complaint is defective in that it did not describe the

specific property sought to be expropriated; and that the current price of irrigated lands in Batangas is about P3,000 per hectare and so plaintiff's deposit was insufficient.

After hearing and the introduction of evidence, both oral and documentary, the trial court issued an order dated July 18, 1952, dismissing the various motions for dismissal and declaring the plaintiff entitled to take the property sought to be condemned for public use as described in the second amended complaint upon payment of just compensation to be ascertained by Commissioners to be appointed by the court for this purpose. The defendants are now appealing from that order directly to this Tribunal.

The trial court declared that the present expropriation proceedings are based on Section 4, Article XIII of the Constitution which provides that—

"The Congress may authorized upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals."

and section 1 of Commonwealth Act 539 which provides that the President of the Philippines is authorized to acquire private lands through purchase or expropriation and subdivide the same into home lots or small farms for resale to bona fide tenants or occupants. The trial court also said that although this Tribunal in the case of Guido vs. Rural Progress Administration, G. R. No. L-2089 (47 Off. Gaz., No. 4 p. 1848) held that section 4 of Article XIII of the Constitution had reference to large estates, still, the total area of the parcels now sought to be expropriated, which, is between 67 and 77 hectares, may not be considered small; that the tenants and occupants of the land for whom these expropriation proceedings were instituted have by themselves and their ancestors been occupying, clearing and cultivating the land for many years and that they are entitled now to purchase the same; that the situation in the area in question was far from peaceful because there was misunderstanding and trouble between tenants on one side, and their landlords (the defendants herein) on the other, regarding their shares in the harvests and that the only way to solve this tenancy problem was to expropriate the land and sell it to the tenants; that both Sinclair and Cirilo P. Baylosis were formerly agreeable to sell this land to others for a profit as shown by the fact that they had actually sold portions thereof to others and that consequently, they can now have no valid objection to the expropriation, that heretofore the Government had already expropriated a large portion of Lian Estate or Hacienda, divided the same into small lots and thereafter resold them to tenants, thereby showing that by its nature, location and destination, the property is suitable for the purpose for which it is being expropriated, and that these proceedings are in keeping with what the Government had already done with respect to other portions; that although it is contended that several of the tenants and occupants have already lands of their own aside from the portions they are now occupying, still, they are actual occupants and it would not be fair or just that they would not be included in the benefits of the expropriation, and that in any event, once the expropriation is carried out, it is for the Government to screen and process the tenants, and that those found already owning lands may be disqualified to buy the land being expropriated. As to the portions into which lots 306-YYYY and 306-BB have been sub-divided and then sold by Cirilo P. Baylosis to his co-defendants, the trial court observed that said sales were made after Baylosis had been served on January 17, 1949, with notice by the Rural Progress Administration of the intention of the Government to purchase said lots, and that considering that the purchasers are relatives of Baylosis, and that the transfer certificates of title were issued in 1950, there was reason to believe that these sales by Baylosis were simulated, and intended to frustrate the attempt of the Government to expropriate.

For a better and a clearer understanding of the facts in this case, particularly the parcels involved, their areas and owners, the particular portions sought to be expropriated and the number of tenants and occupants sought to be benefitted by the expropriation, we have prepared the following tables or graphs, marked "A" and "G," based on the pleadings and on the order appealed from.

Table "A" Area

1. Lot 306-YYY

25.0159 square meters

To be acquired.....

22.4033 square meters

Occupants 21

Dependents.....

100

2. Lot 306 BBB

17.9827 square meters

To be acquired

13.4564 square meters

Occupants 10

Dependents

40

3. Lot 306-CCC

13.9129 square meters

Whole to be acquired

Occupants 9

Dependents

40

4. Lot 306-EEEE

10.4955 square meters

To be acquired

9,1809 square meters

Occupants 4

Dependents

20

5. Lot 306-Z

8.7762 square meters

To be acquired

4.0000 square meters

Occupants 1

Dependents

4

6. Lot 306-LL

14.3203 square meters

To be acquired.....

1.5000 square meters

Occupants.....1

Dependents

4

7. Lot 306-DDDD.....

5.8946 square meters

To be acquired

3.0000 square meters

Occupants 1

Dependents

4

Owners 23

Dependents

90

Occupants 44

Dependents

214

TABLE "B"

Names of defendants

Lot No. and Title No.

Area in hectares

Maria Lunesa.....

306-YYY-1

4.9996

TCT-2959

Pastora Baylosis

306-YYY-2

2.0000

TCT-3079

Spouses Marcelo Basit and Magdalena Bayungan

306-YYY-3

2.0000

Spouses Tomas Asuncion and Bonifacio Bayungan

306-YYY-4

1.0315

Spouse Raymunda Hernandez and Juan Gonzales

306-YYY-5

1.0998

TOT-2960

Spouses Tirso de Padua and Maria Dolores Bayungan

306-YYY-6

3.000

TOT-3311

Spouses Luis Baylosis and Manuela Pineda

306-YYY-8

9.9974

TOT-3510

Spousea Benito Baylosis and Macaria L. Torres

306-BBB-1

2.4256

306-BBB-9

.9639

TOT-2877

Spouses Alejandro Abellera and Juliana Camellon

306-BBB-7

1.0711

TAT-2897

Spouses Roberto Capoon and Gavina Baylosis....

306-BBB-7

3.7725

Luis Baylosis—Part of lot

306-Z

3.8009

Cirilo P. Baylosis

T-3133

8.8051

T-3426

N. V. Sinclair & C. P. Baylosis

306-CCCC

13.9125

306-EEEE

9.1809

N. V. Sinclair

306-LL

4.0000

306-DDDD

5.8946

Table "A" shows the number of lots to be affected by the expropriation including the areas to be expropriated, and the number of their occupants and dependents. Table "B" shows the names of the owners of the original seven lots involved and of the smaller lots into which they had been subdivided and their areas. Table "A" further shows the area sought to be expropriated from each individual lot, totaling approximately 67 hectares. The number of tenants or occupants is about 44 and the number of their dependents is about 214. For the defendants owners, there are about 23 of them with about 90 dependents.

It will be seen from the tables that neither the exact location of the portion to be expropriated from each lot nor its form or shape is stated or defined, thereby supporting the contention of the defendants on this point. Table "A" also shows that the Government wants to expropriate, not one whole parcel or the seven lots comprising said parcel but is selecting only portions of said seven different and separate lots, presumably those actually occupied and cultivated by the tenants. If the expropriation is carried out, we do not know what portions would be left to the owners, the forms thereof and whether or not it would be worthwhile for the said owners to keep them.

Let us now discuss the several reasons given by the trial court for upholding the right of the Government to expropriate in this case. It says that the tenants and occupants for whose benefit the land is being expropriated have by themselves and their ancestors been occupying and cultivating the same for many years and are therefore entitled to purchase the same. We are afraid that that holding has no legal basis. The mere fact that a person as a tenant has occupied and cultivated and even cleared the land for his landlord does not entitle him to purchase the same against his landlord's will, by means of expropriation. Expropriation by the Government, obliging a land owner to part with his real estate is authorised only when done for public use or for public benefit and not to enable one to own real property at the expense of another especially when said owner has no other real property except the one being expropriated. Some of the defendants herein (Alejandro Abellera and Benito Baylosis) have

no other land except the small lots bought by them from Cirilo P. Baylosis and now subject of the present expropriation proceedings. Defendant Juan Gonzales told the Court that he is actually by himself, plowing and cultivating the small lot of about one hectare that he bought from Cirilo P. Baylosis, now sought to be condemned. We should not forget that the Constitution protects private property, prohibits a citizen being deprived of his property without due process of law, and that even in condemnation proceedings when said citizen is given just compensation for his property expropriated, still, the expropriation to be valid must be for a public use or public benefit.

Again, the trial court says that there are tenancy problems in the lands being expropriated, there being misunderstanding between the owners and the tenants as to the share of each in the harvest, and that the only way this problem could be solved is to expropriate the land. This seems to be a novel theory which finds no statutory or constitutional support. If this theory were correct and is to be followed and applied, then all that a tenant has to do in order to be able to buy the land of his landlord is for him, or better still, with the help and cooperation of his co-tenants, to violate the tenancy law, refuse to give the 30% corresponding to his or their landlord or even deny the title of said landlord, thereby creating a tenancy problem, upon which the Government will immediately step in and commence expropriation proceedings, claiming that the only solution of the trouble between the landlord and the tenants lies in expropriation. We cannot believe that was ever the intention of either the framers of the Constitution or of the members of Congress. That is the reason why Congress has promulgated the Tenancy Law, clearly specifying the rights and obligations of both landlord and tenant, their respective shares in the harvest, and the removal of a tenant only for certain specified reasons or causes; and that is why we have the Tenancy Division in the Court of Industrial Relations to handle and decide tenancy disputes.

Furthermore, it is not exactly correct to say that there is a tenancy problem in the land in question, and even if there were, the fault may be attributed to the tenants themselves rather than to the owners. It will be remembered that in the petition filed by about 68 persons claiming to be occupants of the parcels originally owned by Sinclair dated October 6, 1946, addressed to the Rural Progress Administration, nothing was said about tenancy trouble. All that they said in said petition was that they had been working on the land for a long time and had cleared the place of big trees, and that they wanted to buy the land and pay the price to the Government in installment. Indeed, the evidence shows that Sinclair never had any trouble with his tenants. And there is reason to believe and evidence to support the belief that the tenancy trouble on the land in question began only around the year 1948 after the tenants and occupants were presumably given the hope and the assurance by the Rural Progress Administration that the Government was going to acquire the land for them either through purchase or expropriation. It was then according to Cirilo P. Baylosis that the tenants refused to give him and his co-defendants their share of the harvest and even refused to acknowledge him as owner of the land he had bought from Sinclair. So, according to Cirilo P. Baylosis, he and his co-defendants to whom he had resold portions of the land bought from Sinclair, had to go to the Tenancy Law Enforcement Office and complain against the tenants and said Tenancy Office in several orders concurred in by the Court of Industrial Relations held that even under Commonwealth Act 538 which authorizes the suspension of cases of ejectment against tenants of lands included in condemnation proceedings, the tenants should first pay the current rents or give the shares of the landlords in the harvest, a thing which the tenants in those cases had failed and refused to do and so the cases against the tenants were decided against them. (See Exhibits V-1-1, V-2-1, V-3-1 and V-4-1)

The trial court also said that if Sinclair and Cirilo P. Baylosis formerly were willing to sell their holdings or portions thereof to others as they have done to their co-defendants, there was no reason why the defendants should now object to the Government purchasing said lands through expropriation. But there is a difference and room for distinction. The right to dispose or not to dispose of one's property is one of the attributes of ownership. A person just because he is willing to sell his property to "A" may not be obliged to sell it to "B" unless the law in certain

specific cases such as legal redemption compels him to do so. Again, a land owner may be willing or even offer to sell his land today to "A", but unless the offer is accepted and acted upon, he may change his mind and refuse to sell to "A" next year or refuse to sell it to anyone for that matter.

The evidence shows that both Sinclair and Cirilo P. Baylosis at one time were willing to sell to some of the tenants and occupants herein involved under certain conditions and provided that they buy in groups, presumably to avoid subdivisions and the problem of dealing with many individual buyers, but the tenants failed to buy. Naturally, they may not now compel Sinclair and Cirilo P. Baylosis to sell to them through the Government by means of expropriation. Besides, the bulk of the lands that Sinclair and Cirilo P. Baylosis had formerly offered to them for sale which offer they failed to take advantage of, has now been sold to others, the other co-defendants herein, in small lots.

One reason not improbable why the tenants and occupants failed to take advantage of the former offer of Sinclair and Cirilo P. Baylosis to sell the lands to them was the matter of price. According to the letter of the Rural Progress Administration to Sinclair on November 15, 1948, those who signed the petition of October 17, 1946, claiming to be the tenants and occupants of the land, offered to buy the same at P600 per hectare, payable within a period of ten years. The defendant owners of the land herein claim that the current price of first class riceland in Batangas is around P3,000 per hectare. Even taking as a basis the price paid by Cirilo P. Baylosis for the lots bought by him from Sinclair, now being expropriated, the price is way over P1,000 almost P2,000 per hectare. Naturally, Sinclair and Baylosis were unwilling to sell at P600 a hectare, to say nothing of said price being paid in ten years. And that is the reason why the defendants herein claim that the deposit of P27,000 made by the tenants and occupants, is insufficient to cover the price of the land, said amount of the deposit being equivalent to only about P400 per hectare for the 67 hectares sought to be expropriated.

Supposing that the expropriation is carried out and the Commissioners and the trial court find that the land expropriated is worth P2,000 or more per hectare, would the tenants and occupants be still willing and would they be able to pay said price? Supposing that they were not, then what would happen? Would the Government undertake to pay the difference between the actual value of the land expropriated for them and their offer to pay only P600 per hectare, and this payable in ten years at that? Section 4, Article XIII of the Constitution on which the present expropriation proceedings are supposed to be based says that the lands expropriated are to be subdivided into small lots and conveyed at cost to individuals. That means that the Government will not make any profit in the transaction, but it also conveys the idea that the Government will sell at a price to include what it cost the Government to expropriate. The cost of subdivision, registration fees and transfer certificates of title will probably have to be added to the cost of the land. Again, it may be asked, what will the Government do if the tenants and occupants are neither willing nor able to pay said total cost?

There is another point that merits consideration. The defendants claim and correctly that many of the tenants and occupants now insisting on expropriation have lands of their own. According to the list prepared by the Bureau of Lands containing the names of persons who are occupying and holding portions of land being administered by the Bureau of Lands in Batangas (Exhibit 13-Baylosis), many, if not the majority of the tenants and occupants of the lands now sought to be expropriated are included in said list. The evidence further shows that several of the tenants, among them Victor Magpantay, C. Balaquiot, Luciano Panganiban, Isabelo Manguera and Andres Castronuevo have lands of their own; that some of the lands are sugar lands for which they hold sugar quotas and one of the said tenants, Andres Castronuevo, is cultivating a portion of the land sought to be expropriated and which he wants to buy, not by himself but through an aparcero or tenant.

In relation to this claim of the defendants that some of the tenants and occupants have lands of their own and so are not qualified to be the beneficiaries of expropriation, the trial court said that that is no problem because the

Government can later screen and process said, tenants and occupants, and that if some are found to be disqualified because they are already land owners, then they should not be allowed to purchase the portions occupied by them. But if and when this happens, what becomes of said portions taken away from their former owners over their vigorous opposition and which portions later proved to be not subject to expropriation for the reason that the persons occupying them do not deserve and are not qualified to purchase them? A real injustice will have been done to the owners of these portions because they had been included and made defendants in these proceedings, deprived of their holdings against their will, only to find out later that the expropriation as to these portions was improper and unjustified.

The defendants have introduced evidence without refutation through the testimony of one Anacleto Jonson, an employee of the Bureau of Lands in charge of the 3,700 hectares of the Lian Estate expropriated by the Government way back in 1940 and 1941, and intended to be subdivided into small lots and resold to their tenants and occupants, on the status of said lands. According to Jonson, since then which up to now, involves a period of about thirteen years, said area of 3,700 hectares remains unsubdivided; that no portion of said big area has been resold or even contracted to be resold by the Government to their occupants and tenants, and all that the Government is doing is to administer the same and receive the portion of the yearly harvest corresponding to the owner. In other words, all that has been done, thirteen years after the expropriation was to transfer the ownership and administration of this big area with about 800 tenants and families from the Lian Estate to the Government which has assumed the role of lessor and landlord. No reason or explanation was given for this rather strange if not anomalous situation. The defendants, owners of the land being condemned, feeling a little bitter against the Government, condemns its action in instituting the present proceedings, and point to this unfortunate situation and status of the 3,700 hectares expropriated in 1941 as an example of the Government's rather over-ambitious program of expropriation. They say:

"* * *. In 1939, the Commonwealth of the Philippines, filed the expropriation proceedings in the Court of First Instance of Batangas of certain portions of the Lian Estate still owned by Colegio de San Jose, Inc., and occupied by 800 persons (t.s.n. p. 359). The Colegio de San Jose, Inc., finally executed the Deed of Sale for 4,300 hectares of land on May 1940, and title and ownership to these lands were then transferred to the Commonwealth of the Philippines (t.s.n., pp. 73-74, 357-359). However, notwithstanding, the expropriation of this Urge estate of 4,300 hectares of homesites and agricultural lands by the Commonwealth of the Philippines 13 years ago, for resale to the poor and landless, up to the present time this property has not been subdivided into small lots, nor sold to the actual occupants (t. s. n., p. 360). Notwithstanding this state of affairs, the plaintiff is still bent on expropriating another 67 hectares of agricultural lands consisting of 18 small lots of small areas which do not adjoin each other and belonging to 20 small landowners (Record on Appeal, pp. 2-14) who are intended by the framers of the Constitution to be protected by section 4, Article XIII of the Constitution." (Appellant's brief, pp. 7-8).

This Tribunal in the case of Guido vs. Rural Progress Administration, supra, held that Section 4 Article XIII of the Constitution has reference only to large estates, trusts in perpetuity, and lands that embrace a whole town or a large portion of a town or city. The lands now sought to be expropriated with a total area of 67 hectares, even if considered as one whole parcel which they are not, can of course not be regarded as a landed estate. During the discussion of this case it was urged by the minority that as long as any land formerly formed part of a landed or large estate, it may, regardless of its present area be still subject to expropriation under section 4, Article XIII of the Constitution, citing the doctrine laid down in the case of Rural Progress Administration vs. Reyes, G. R. No. L-4703, October 8, 1953. It is true that said ruling was made in the Reyes case but we should bear in mind that that was a decision by a highly divided court, six for the majority and four dissenting, but two majority concurring only in the result and one of them concurring in a separate opinion. It seems that the members of the Tribunal espousing the majority opinion therein were greatly impressed by the fact that notwithstanding the small area

involved, about two hectares, there were 113 persons living on the same, and dependent on the products of the fisheries on it, and evidently had no other place to go to live. We feel that the decision in that Reyes case was a departure from the doctrine laid down in the leading case of Guido which doctrine has been subsequently affirmed and reiterated in a long line of cases, and we now believe that in abandoning the ruling made in the Reyes case, this Tribunal is merely returning to and re-affirming the sound and wholesome doctrine laid down in the Guido Case.

The main purpose of the constitutional provision contained in section 4, Article XIII of that instrument was to break up landed estates into reasonably small portions. Once said landed estate is broken up, the purpose of the constitution is achieved. Otherwise, were we to adhere to the rule made in the Reyes case that if a piece of land, regardless of size, formerly formed part of a big landed estate, it is necessarily subject to expropriation, then there would be no limit or foreseeable end to expropriation. A landed estate of say 3,000 hectares is broken up into say 50-hectare lots and sold to the lessees or occupants thereof. The tenants in that 50-hectare lot want to buy their holdings and because the lot was formerly a part of a landed estate, it is again expropriated and subdivided into say 5-hectare lots. A buyer of this 5-hectare portion may have tenants cultivating portions thereof and these tenants would again insist on expropriation into say one hectare lots and so this expropriation would and may go on endlessly until the minimum of a few square meters is reached, just to accommodate one single tenant. We hold that that could not have been the intention of the framers of the Constitution. We also say that once a landed estate is broken up into portions of reasonable area, the buyers thereof are protected by the Constitution against further expropriation.

The trial court in justifying the present expropriation held that the land sought to be condemned with an area between 67 and 77 hectares is not small. It perhaps meant to say that it is large, and so may be regarded as a landed estate coming within the contemplation of the Constitution for purposes of expropriation. As a matter of fact, the land is only about 67 hectares in area. Not only this but it has already been subdivided into smaller portions ranging from thirteen hectares to as small as one hectare and now owned by different individual families. But even considering the land as a whole parcel of 67 hectares, may it be considered a landed estate whose ownership by one person is discouraged by the Constitution, and so subject to expropriation?

Our attention is called by the defendants-appellants to Land Administrative Order No. R-3 issued by the Department of Agriculture and Natural Resources. Executive Order No. 376 dated November 28, 1950, abolished the Rural Progress Administration which was formerly in charge of the expropriation of landed estates and transferred said function to the Bureau of Lands, creating therein a Division of Landed Estates. The Bureau of Lands is under the Department of Agriculture and Natural Resources and the latter promulgated Administrative Order No. R-3 under the provisions of Section 79-B of the Revised Administrative Code. This Administrative Order is entitled "Rules and Regulations Governing the Acquisition and Disposition of Landed Estates. Section 3 thereof reads as follows:

"3. Minimum Area of Private Estates to be acquired.—Except in special cases, no proceedings shall be initiated for the appropriation of an estate unless the area thereof be at least 5 hectares if for residential purpose; and at least 100 hectares if for agricultural purposes. This shall be without prejudice to the acquisition of smaller areas thru negotiation."

According to the above reproduced section, no agricultural land will be expropriated for purposes of resale if less than 100 hectares in area. Although this Administrative Order was issued on October 19, 1951, after the commencement of the present expropriation proceedings, nevertheless it embodies the policy of the Government as to the size of agricultural lands that may be expropriated under section 4, Article XIII of the Constitution. In other words, the Government considers 100 hectares of agricultural land not to be too large to be owned by an

individual, family, or entity so as to be subject to expropriation. And this policy is but just and is consistent and in keeping with the policy contained in our laws governing the public domain. Under the old Public Land Law (Act No. 926), a person and his family may apply for and obtain a homestead with an area of 16 hectares. This was evidently found to be too small for purposes of expansion for a family and the area for a homestead was later increased to 24 hectares under Act 2874 and Commonwealth Act 141. That means that a man, poor and landless, who has to apply to the Government for a homestead may own as much as 24 hectares of land. Commonwealth Act 141 provides that an individual may purchase 144 hectares of public land, meaning to say, that 144 hectares is not too large a parcel to be owned by a person or a family. And as to corporations the Public Land Act authorizes them to purchase or lease 1024 hectares of the public domain. In view of this policy of the Government as to the size of agricultural land which a corporation or an individual may legitimately own, even purchase from the Government itself, it is clear that a parcel of 67 hectares in area such as the land now sought to be expropriated is not a landed estate or too large a parcel so as to justify expropriation; and if we consider the fact that these 67 hectares were originally seven distinct and separate parcels owned by Sinclair and later subdivided into about 17 parcels now owned by twenty-three, one would realize the impropriety of expropriating so as to enable the tenants and occupants thereof to buy them. In the Guido case we indirectly held through Mr. Justice Tuason that parcels of 10, 15 or 25 hectares in area may not be expropriated for the purpose of reselling them to the tenants and occupants, and that to do so would be an act of oppression. What the Government is now trying to do in the present case is to take away parcels ranging from one to thirteen hectares in area from about 23 land owners with about 90 dependents and transfer them to about forty-four tenants with about 214 dependents. We hold that that cannot be done, not only because it has no statutory or constitutional support but also because it is unjust. What section 4, Article XIII of the Constitution intended and sought to do was merely to break up landed estates, and trusts in perpetuity. It intended to discourage the concentration of and excessive landed wealth in an entity or a few individuals, but surely it did not intend or seek to distribute wealth among citizens or take away from a citizen land which he did not actually need and give it to another who needs it. That does not come within the realm of social justice. Said this Tribunal in the Guido case:

"The promotion of social justice ordained by the Constitution does not supply paramount basis for untrammelled expropriation of private land by the Rural Progress Administration or any other government instrumentality. Social justice does not champion division of property or equality of economic status; what it and the Constitution do guaranty are equality of opportunity, equality of political rights, equality before the law, equality between values given and received, and equitable sharing of the social and material goods on the basis of efforts in their production."

The trial court held that Cirilo P. Baylosis subdivided lots 306-YYY and 306-BB and sold them to many of his co-defendants in the year 1950, as shown by the dates of the registration of the sales in the Office of the Register of Deeds, this, after he had been notified by the Rural Progress Administration in 1949 of the intention of the Government to expropriate those lots, and that furthermore, many if not all of the purchasers of his lots as subdivided were his relatives, thereby giving said court reason to believe that those sales by Cirilo were all simulated, intended to frustrate the attempt of the Government to expropriate. In the first place, Cirilo asserts that he made the subdivision and made the sales before he received the notice from the Rural Progress Administration in 1949 but because it took the Bureau of Lands a long time to approve the subdivision survey and plan, the sales were not registered until 1950. In the second place, the mere fact that a land owner subdivides his land and sells them to his relatives does not mean that the sales are simulated or fraudulent. It is not unnatural for a person who has something to sell, to give preference to his relatives; and with respect to lands, to have as his neighbors and adjoining owners people whom he knows and are related to him. In the third place, and this is the most important, even assuming that Cirilo P. Baylosis was previously notified of the intention of the Government to expropriate his land, said notice by no means could legally prevent him from disposing of his property;

otherwise, the mere announcement or notice of the intention of the Government to expropriate a parcel of land, however indefinite and uncertain that intention may be, would as it were freeze said property in the hands of its owner. Thereafter, the owner may not deal with his own property, mortgage it, much less sell it and all he could do is to wait patiently, for any future action of the Government in the way of expropriation. Said expropriation may come long afterwards or may not come at all because the Government may change its mind, and in the meantime the landowner is rendered helpless as regards his own property. In the present case, as already stated, the petition for expropriation was not filed by the Government until the year 1951, more than two years after the notice of the Government's intention to expropriate was served on Cirilo. We hold that mere notice of the intention of the Government to expropriate lands in the future does not and cannot bind the landowner and prevent him from dealing with his property. To bind the land to be expropriated and the owner thereof, the expropriation must be commenced in court and even then we are not certain that the owner may not deal with his property thereafter, mortgage or even sell it if he can find persons who would step into his shoes and deal with the Government, either resist the expropriation if in their opinion it is illegal or accept the expropriation and remain with what is left of the property if the entire property is not needed by the Government.

In conclusion we hold that under section 4, Article XIII of the Constitution, the Government may expropriate only landed estates with extensive areas, specially those embracing the whole or a large part of a town or city; that once a landed estate is broken up and divided into parcels of reasonable areas, either thru voluntary sales by the owner or owners of said landed estate, or thru expropriation, the resulting parcels are no longer subject to further expropriation under section 4, Article XIII of the Constitution; that mere notice of the intention of the Government to expropriate a parcel of land does not bind either the land or the owner so as to prevent subsequent disposition of the property such as mortgaging or even selling it in whole or by subdivision; that tenancy trouble alone whether due to the fault of the tenants or of the landowners does not justify expropriation; that the Constitution protects a landowner against indiscriminate and unwarranted expropriation; that to justify expropriation, it must be for a public purpose and public benefit, and that just to enable the tenants of a piece of land of reasonable area to own portions of it, even if they and their ancestors had cleared the land and cultivated it for their landlord for many years, is no valid reason or justification under the Constitution to deprive the owner or landlord of his property by means of expropriation.

In view of the foregoing, the order appealed from is reversed; the motions for dismissal filed by defendants-appellants are granted; and the petition for expropriation is dismissed, with costs in both instances.

Bengzon, Padilla, Jugo, and Bautista Angelo, JJ., concur.

CONCURRING OPINION

REYES, A. J., concurring:

Without subscribing to some of the views expressed in the majority opinion, I concur in the result, it not being clear that there has been an attempt here to evade the expropriation while on the other hand the object of the expropriation—so it would appear—is to take land from small land-holders in order to give it to other some of whom already have land of their own. As the Spaniards would say, *eso es desnudar a un santo para vestir a otro*.

DISSENTING OPINION

PARAS, C.J., with whom concurs PABLO, J., dissenting:

I vote to affirm the well prepared and cogently reasoned order of the Court of First Instance of Batangas which

reads in full as follows:

"The original complaint for expropriation in this case was filed with this Court on February 6, 1951. In order to bring in other defendants, the original complaint was twice amended, and the second amended complaint substantially alleges the following: That the plaintiff, Republic of the Philippines, is represented in this action by the Director of Lands; that the property sought to be condemned consists of seven parcels of land, with a total area of 674,535 square meters, situated in barrio Binubusan, Municipality of Lian, Province of Batangas, and more particularly described in the second amended complaint of the plaintiff; that the defendants Nelson V. Sinclair and Cirilo P. Baylosis are the respective owners of the said property, while the remaining defendants are alleged purchasers of portions thereof belonging to defendant Cirilo P. Baylosis; that the said property was originally owned by the Colegio de San Jose, which sold it to defendant Nelson V. Sinclair, who, in turn, sold portions thereof to defendant Cirilo P. Baylosis; that this property is presently occupied by around forty-seven tenants, with around two hundred dependents, for whose benefit these expropriation proceedings have been instituted; that the said tenants and their predecessors-in-interest have been in possession of the said property from time immemorial, having introduced thereon improvements consisting of fillings, fences, buildings, fruit trees and other crops; that defendant Cirilo P. Baylosis, in an attempt to circumvent Commonwealth Act No. 539, and with full knowledge of these contemplated condemnation proceedings, simulated transfer of portions of his property in favor of his co-defendants, except Nelson V. Sinclair, and caused transfer certificates of title to be issued in the names of said co-defendants, all for the purpose of defeating these proceedings; that some of the defendants have attempted to eject from, and disposses the tenants of, the property in question which the latter and their predecessors-in-interest have held from time immemorial, as a result of which acts, tenancy cases and other differences have arisen between landlords and tenants, and that the plaintiff needs to acquire title to and ownership of the property in question for the purpose of subdividing the same into small lots and selling the subdivided lots to tenants occupying the property, in keeping with the social amelioration program of the government to improve the lot of the tenants, to promote their interest and well-being, and thus to avoid and forestall social unrest. Premised upon the foregoing gist of the allegations of the second amended complaint plaintiff prays, among other things, that an order of condemnation be entered declaring that plaintiff has a lawful right to take the property sought to be condemned for the public use and purpose already mentioned upon payment of just compensation to be determined by the court.

"On February 14, 1951, this Court, after first hearing the parties issued an order placing the plaintiff in possession of the property sought to be expropriated, after the said plaintiff had made a deposit of P27,105.22, pursuant to the provisions of section 3 of Rule 69 of the Rules of Court.

"On September 24, 1951, the tenants in whose behalf these proceedings were instituted by plaintiff, put in a motion for intervention, accompanied by a complaint in intervention, in which complaint the said tenants take the very same position of, and make common cause with, the plaintiff in the latter's second amended complaint. In view of the fact, however, that the interests of the said tenants are sufficiently taken care of and defended by plaintiff's action, the said intervention is deemed unnecessary.

"To plaintiff's second amended complaint, the various defendants interposed a total of nine separate motions for dismissal based upon the following principal grounds stated in brief outline: (1) that the property being expropriated is not for public use; (2) that by this expropriation, defendants are being deprived of their property without due process of law; (3) that this expropriation amounts to the taking of property from one private citizen and delivering it to another private individual; (4) that Executive Order No. 376 is null and void; (5) that the Bureau of Lands exceeded its authority when it seeks to expropriate private properties of the defendants, instead of the Lian Estate; (6) that the Constitution authorizes the expropriation of big landed estates, and not of small areas like those at bar; (7) that this expropriation is intended to benefit only forty-four persons who do not represent the public; (8) that many of the said persons are already landowners in Lian; (9) that the said persons are not law-abiding and do not believe in democratic processes, and they are not lessees

but only aparceros on a year to year contract basis; (10) that the said persons have not introduced any permanent improvements upon the property in question; (11) that the various defendants individually own only small portions of the property under expropriation; (12) that plaintiff's second amended complaint does not describe with certainty and definiteness the specific property sought to be expropriated; (13) that the current price of irrigated rice lands in Lian, Batangas, is P3,000.00 per hectare, and plaintiff's deposit is insufficient, and (14) that defendants have suffered damages as a result of these proceedings. To defendant's motion for dismissal, the plaintiff has filed a written reply on May 14, 1951.

"Upon motion of Miguel Bascuguin, one of the forty-seven tenants mentioned in the second amended complaint, and without objection on the part of the plaintiff, this Court by order of October 30, 1951, excluded the said Miguel Bascuguin from these proceedings on the ground that he has not authorized anyone to file, and is not interested in, the same.

"The pleadings having thus been presented and the issues joined, the case came on for hearing on the underlying question of whether or not the plaintiff is entitled to expropriate the property in question, during which hearing the plaintiff and the defendants adduced their evidence in support of their respective stand upon the said question. The salient features of the said evidence and the rival claims of the parties arising therefrom will in a moment be taken up.

"The factual background eventuating in the institution of the present proceedings is disclosed by documentary evidence brought forward by plaintiff. As far back as May 4, 1948, upon petition of certain tenants on the property of defendant N. V. Sinclair, the then manager of now defunct Rural Progress Administration addressed the following letter, Exhibit "B", to said defendant:

"May 4, 1948

Mr. N. V. Sinclair
181 David, Escolta
Manila

Sir:

There has been received in this Office a petition for the acquisition by the Government for resale to the tenants of the following six lots in Binubusan, owned and/or administered by you:

Lot N. 306—CCCC under tax declaration No. 852
Area—13.9125 hectares.
Kind—Irrigated agricultural land.
Assessed value—P6,400.00

Lot No. 306—Z under tax declaration No. 858
Area—8.7762 hectares.
Kind—7.7762 hectares irrigated agricultural land 1.0000 hectare
—riceland.
Assessed value—P4,040.

Lot No. 306—YYY under tax declaration No. 864
Area—25.0159 hectares.
Kind—Irrigated agricultural land.
Assessed value—P9,760. :

Lot No. 306—BBBB under tax declaration No. 365

Area—17.9827 hectares.
Kind—Irrigated agricultural land.
Assessed value—P7,010

Lot No. 306—EEEE under tax declaration No. 866
Area—10.4955.
Kind—Irrigated agricultural land.
Assessed value—P4,090.

Lot No. 306—LL under tax declaration No. 350
Owner— Colegio de San Jose.
Administrator—N. V. Sinclair.
Area—14.3208 hectares.
Kind—Fish pond.
Assessed value—P5,730.

The reason given by the tenants in presenting their petition is that your relation with them is not altogether too satisfactory having on previous occasion tried to disregard the 70-30 crop sharing basis, although later have yielded to observance thereof upon the insistence of the tenants. They likewise complain that you are planning to eject them, a plan which if carried out, will result in untold sufferings on their part, without mentioning the pain of leaving the premises which they have occupied and tilled since time immemorial.

Before we take action on their petition we will appreciate your favor of informing us for your willingness to sell said parcels of land, in accordance with the provisions of Commonwealth Act No. 539 and the conditions of the sale.

Respectfully,

(Sgd.) Faustino Aguilar
Manager"

"To the aforequoted letter, defendant N. V. Sinclair made the following answer, Exhibit F:

"May 7, 1948

"Rural Progress Administration
Department of Justice Building
Walled City, Manila

Attention: Mr. Faustino Aguilar, Manager

" 'Gentleman:

" 'This will acknowledge receipt today of your communication dated May 4th, with reference to the petition for your administration to purchase lands of the writer located in Barrio Binubusan, Municipality of Lian, Province of Batangas.

" 'The reason given by the petitioners are not true and it will be a pleasure to acquaint you with the facts concerned with each of the lots specified!

" 'This information will be assembled at the earliest possible time and in order to expedite its submission to your goodselves, your letter is being forwarded to my representative at Lian.

" 'In the meantime, it is requested that you kindly allow me sufficient time to submit the true facts pertaining to each lot before you take action on this Petition.

" 'Respectfully,

""(Sgd.) N. V. Sinclair
Owner'

"On November 15, 1948, the following reminder, Exhibit H, was sent to defendant N. V. Sinclair:

" 'November 15, 1948

" 'Mr. N. V. Sinclair
181 David, Escolta
Manila

" 'Sir:

"In connection with your letter dated May 7, 1948, advising us that you will forward to this Office under separate cover informations regarding your refusal to sell to certain petitioners your lands in Binubusan, Lian, Batangas, known as lot Nos. 306-CCCC; 306-Z; 306-YYY; 306-BBBB; 306-EEEE and 306- LL, please be informed that up to the present we have not as yet received said letter. As it is our desire to apprise the petitioners of the same, the favor of an early information from you will be appreciated.

" 'Likewise the petitioners again called at this office and have made an offer to buy said lands at P600 per hectare on a 10-year period to pay. If the said price is acceptable to you, please advice us accordingly.

Respectfully,

""(Sgd.) Faustino Aguilar
Manager'

"On December 14, 1948, the aforequoted reminder was followed up by the following letter, Exhibit G:

" 'December 14, 1948

" 'Mr. N. V. Sinclair
181 David, Escolta
Manila

" ' Sir;

""With further reference to lots 306-CCCC; 306-Z; 306-YYY; 306-BBBB; 306-EEEE and 306-LL Lian, Batangas, which was the subject of our letter to you dated November 15, 1948 (enclosed copy) the occupants thereof have again come to this office informing that you are in the process of disposing of said lands to persons other than the petitioners and in fact you have already sold to Atty. Cirilo Baylosis lot 306-YYY and to Casimiro Balaguiot lot 306-E. In order to avoid the further complication of the matter, we would request that you refrain from disposing of the. same during the period of . this negotiation pursuant to the provisions of Commonwealth Act No. 538. It is likewise requested that you give your comment on our letter to you dated November 15, 1948.

" 'Respectfully,

" '(Sgd.) Faustino Aguilar
Manager'

"As defendant N. V. Sinclair had in the meantime sold portions of his property to his co-defendant Cirilo P. Baylosis, the Manager of the Rural Progress Administration wrote the latter defendant the following letter, Exhibit I:

" 'January 17, 1949

" 'Atty. Cirilo P. Baylosis
Balayan, Batangas

" 'Sir:

" 'We have been informed that you bought the lands of N. V. Sinclair at Binubusan, Lian, Batangas, known as lots 306-YYY; 306-LL; 306-Z; 306-CCCC; 306-BBBB and 306- EEEE and that you are at present taking all the crops thereon including the share due to the tenants with the help of constabulary soldiers. If the report is true, we request that you refrain from taking such step in order to avoid any untoward incident that may arise therefrom.

""The lands which you bought are the subject of a petition for acquisition and resale to the tenants thereof which ia pending final action by this Office.

" 'Respectfully,

" '(Sgd.) Faustino Aguilab
Manager

"On November 14, 1950, the then Secretary of Justice wrote the following letter, Exhibit K, to the Executive Secretary in connection with the contemplated expropriation of the property of Atty, Baylosis:

" 'November 14, 1959 ,

" 'The Honorable
The Executive Secretary
Malacanang Palace
Manila

Sir:

" 'In the Cabinet meeting for August 18, 1950, you submitted the recommendation of the Board of Directors of the Rural Progress Administration for acquisition either by direct purchase or expropriation proceedings of lands owned by Atty. C. Baylosis at Lian, Batangas. On this matter I would like to advise you that after proper study we have found that the acquisition of the said estate by the RPA is fully in accordance with law. All the necessary papers have been prepared and the necessary deposits already made. No further action, however, has been taken because of the lack of proper authority from the Office of the President to file the necessary proceedings in Court. To be able to go on' with the effectuation of the policy to which the Rural Progress Administration is committed, we therefore request that the said authority be given at the earliest possible time.

" 'Respectfully,

" '(Sgd.) Jose P. Bengzon
Secretary of Justice'

"The Presidential authority for the expropriation of the property in question, requested in the letter just quoted, was finally given on November 25, 1950, in a first indorsement by the Acting Assistant Executive Secretary marked Exhibit L of the plaintiff.

"From plaintiff's documentary evidence above set out, it appears that negotiations for the acquisition by the government of the property in question from the former owner, defendant N. V. Sinclair, for resale to the tenants occupying the same, have been afoot since May, 1948, thus disproving defendants' intimation that the present proceedings were started without prior and proper investigation. From the same evidence it further appears that both defendants N. V. Sinclair and Cirilo P. Baylosis were duly notified of, and were therefore well posted on, the contemplated move of the government either to directly purchase the said property or to expropriate the same, long before the said defendants allegedly sold portions thereof to their co-defendants, thereby legitimately giving rise to the suspicion that the alleged sales were for the purpose of frustrating the government's acquisition of the said property. And the fact that plaintiff actually started expropriation proceedings before this Court by filing its first original complaint on February 6, 1951, that is, following the procedure mailed out in Kuie 69 of the Rules of Court, is the refutation to defendants' claim that they are being deprived their property without due process of law.

"One of the basic contentions of the defendants is to the effect that no public utility, convenience or benefit is to be subserved by plaintiff's action, that is, that the property in question is not being expropriated for public use. The contention is met and overcome by strong evidence to the contrary. It is undenied and undeniable that the plaintiff seeks to expropriate the property in question for the avowed purpose of subdividing the same into small lots and selling the subdivided lots preferably to tenants actually occupying the same, or to other tenants with the requisite qualifications to effect such purchase. This purpose has both constitutional and statutory sanction. Section 4 of Article XIII of the Constitution provides that "The Congress may authorize upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at costs to individuals." And section 1 of Commonwealth Act No. 539 provides that "The President of the Philippines is authorized to acquire private lands or any interest therein, through purchase or expropriation, and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their bona fide tenants or occupants or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines'. It would thus seem plain that, in condemnation proceedings like the one at bar, public use, benefit, convenience, necessity, is inevitably and necessarily present as long as the purpose thereof and the property involved are those contemplated by the constitutional and statutory provisions just quoted. In other words, public purpose, etc., is inseparably bound up with the expropriation of property by the government for the purpose of subdividing the same into lots and selling the same to bona fide tenants, etc., the only material inquiry being whether or not the said property is that which the framers of the Constitution and the legislators had in mind when they drafts and approved the said constitutional and statutory provisions. This is so because the very purpose of the said expropriation, to wit, the subdivision of the property into lots and the sale thereof to tenants, is essentially and fundamentally public in nature, being backed up by and founded upon the benign policy of the government to ameliorate the lot of a certain sector of our underprivileged population and thus, to some extent or degree, ease up, if not totally eradicate, the sources of social tension and upheavals.

"As above, intimated, the next question that calls for answer is whether or not the property here involved is that contemplated by the Constitution and the law. In this connection, and taking our cue from the decision of the Supreme Court in *Guido vs. Rural Progress Administration*, G. R. No. L-2089 (hereafter to be referred to as the *Guido* case for short), we pose the following question: 'What lands does this provision- (section 4 Article XIII of

the Constitution) have in view? Does it comprehend all lands regardless of their location, nature and area? It is admitted on all sides that the property in question is irrigated agricultural land situated in barrio Bihubusan, Lian, Batangas. As to its area, plaintiff's second amended complaint places the same at something over sixty-seven hectares, while defendants, on page 3 and 4 of their memorandum makes the following admission with respect to said area:

"The areas sought to be expropriated from the defendants are as follows:

Names of defendants

Lot No. and Title No.

Area in hectares

Maria Lunesa.....

306-YYY-1

4.9996

TCT-2959

Pastora Baylosis

306-YYY-2

2.0000

TCT-3079

Spouses Marcelo Basit and Magdalena Bayungan

306-YYY-3

2.0000

Spouses Tomas Asuncion and Bonifacio Bayungan

306-YYY-4

1.0315

Spouse Raymunda Hernandez and Juan Gonzales

306-YYY-5

1.0998

TOT-2960

Spouses Tirso de Padua and Maria Dolores Bayungan

306-YYY-6

3.000

TOT-3311

Spouses Luis Baylosis and Manuela Pineda

306-YYY-8

9.9974

TOT-3510

Spousea Benito Baylosis and Macaria L. Torres

306-BBB-1

2.4256

306-BBB-9

.9639

TOT-2877

Spouses Alejandro Abellera and Juliana Camellon

306-BBB-7

1.0711

TAT-2897

Spouses Roberto Capoon and Gavina Baylosis.....

306-BBB-7

3.7725

Luis Baylosis—Part of lot

306-Z

3.8009

Cirilo P. Baylosis

T-3133

8.8051

T-3426

N. V. Sinclair & C. P. Baylosis

306-CCCC

13.9125

306-EEEE

9.1809

N. V. Sinclair

306-LL

4.0000

306-DDDD

5.8946

(Order—Civil Case No. 84 Republic of the Philippines vs. C. P. Baylosis et al.)

Summing up defendants' figures, it appears that the said area is 77.9018 hectares. It may therefore be safely stated that the total area of the property in question is from sixty-seven to seventy-seven hectares. In the Guido case, it is intimated that the lands contemplated in section 4 of Article XIII of the Constitution have reference to 'large estates', in the light of the explanatory statement of the Delegate Miguel Cuaderno who was the sponsor of the said provision, for which reason, among others, the Supreme Court did not give its sanction to the expropriation of the property there involved which measured 22,655 square meters, or a little over two hectares only. However, as the property here in question is from sixty-seven to seventy-seven hectares, an area which cannot be considered as small, this Court is of the opinion that the decision in the Guido case may not be invoked against, and does not stand in the way of, the expropriation of the property at bar. Moreover, aside from the standpoint of area, other considerations of weight, presently to be taken up, militate in favor of the present condemnation proceedings.

"The first of these considerations is the undeniable fact that the tenants for whose benefit the present proceedings have been instituted, and their predecessors-in-interest before them, have been in possession of the property in question from time immemorial, and that in the course of the said possession, they have cleaned, cleared and introduced improvements upon the said property. This is all but admitted on page 8 of defendants'

memorandum wherein it is said, 'The mere fact that these few occupants made temporary improvements, by constructing canals, dikes and irrigation dams, did not give any right to the government to expropriate the properties of the defendants who are entitled to the same protection under our laws.' The said occupation has been long continued, and the said improvements have been introduced, Under promise to, and in the reasonable belief, of, the. tenants that eventually their respective portions will be sold to them at cost or reasonable price. In view of the failure of the tenants to directly acquire the said property from the defendants, either because they cannot see eye to eye on the reasonable purchase price thereof or because of past and deep-rooted misunderstandings between them, it would appear that the only logical and legal course to take, in promotion of peace and in recognition of the tenant's preferential rights, is the expropriation by the plaintiff of the property in suit.

"Another equally potent consideration in favor of these condemnation proceedings is the further fact, likewise undeniable, that the defendant Cirilo P. Baylosis, has been far from harmonious, and that they have been perennially at loggerheads with respect to the division of the crops and other conflicting rights. A picture of the situation may be gleaned from page 1 of defendant's own memorandum reading as follows:

"It has been proven that these occupants, who petitioned for the expropriation of these properties, are not law-abiding citizens because they refused to recognize property rights and the democratic processes of the Philippines, refusing to recognize the Tenancy Law. They refused to deliver to the owners, the defendants herein, their shares in the crop harvest. The owners, who are the defendants herein naturally had no other recourse but to bring the matter to the Courts of Justice for their grievances against the tenants and to recover their share in the harvest of the lands occupied by them. The plaintiff himself proved that there was no agrarian trouble on the properties in question, and there was no question whatsoever, on crop sharing, because the sharing is in accordance with the Tenancy Law. The only question involved on the lands in question is the refusal of the occupants to recognize the defendants as owners of the land occupied by them because of their desire to own and purchase the same. * * *'

The foregoing quoted portion of defendants' memorandum is a clear admission that all is not well between the tenants, on the one hand, and the defendants, on the other. Of course, defendants would throw the whole blame for the strained relation upon the tenants, but if the latter, in turn, are to be believed, it is the defendants who are the source of trouble. However, whoever is at fault is beside the point. The fact of the matter is that there is no love lost between the tenants and the defendants; that controversies between them have reached the courts, and that future disagreements may flare up into untoward incidents. In the teeth of these facts, as fertile imagination is necessary to predict the day when this situation may come to a critical head. Hence, the wisdom, if not the imperative necessity of giving due course to these condemnation proceedings in order to nip in the bud and put an end to an explosive source of agrarian trouble. To say that such an objective is not for a public purpose is simply beyond us.

"Still a third consideration that these expropriation proceedings are in order is the fact, also undenied, that defendants N.V. Sinclair and Cirilo P. Baylosis, who own the bulk of the property in question, had originally intended to resell their respective portions to others, possibly for a profit. This is shown by the admitted fact that the defendant N. V. Sinclair sold portions of the property to defendant Cirilo P. Baylosis, while the latter, in turn, had sold portions of what he purchased to his other co-defendants. It is further shown by the following admission found on pages 3-4 of Exhibit 15-Caylosis of defendant Cirilo P. Baylosis:

"That the actual occupants of his lands were offered by undersigned :

'1. To stay as tenant under the same conditions before his acquisition; 2. To purchase the lands under the cash basis; and 3. To buy the lands on the installment basis for a period of 50 years or at the period to be agreed upon. This offer which was made in writing and sent to Atty. Miguel Tolentino was rejected by the petitioners and their lawyer.'

Otherwise stated, the said defendants are ready and willing to resell their respective positions to others under

such terms and conditions as they (defendants) may fix. This being the case, there seems to be no point and validity to their tenacious objection to these proceedings, the primary purpose of which is to buy the property from them through expropriation and thereafter to sub-divide the same into small lots for resale to bona fide tenants or other qualified persons.

"Finally, it is conceded on all side that portions of the Hacienda Lian, of which the property in question also used to be a part, had heretofore been acquired by the Government from the Colegio de San Jose, divided into lots and thereafter resold to tenants. It is evident therefore that, by its nature, location and destination the property in question is suitable for the purpose for which it is being expropriated, and that these proceedings are in keeping with what the Government had already done with respect to other portions of the Hacienda, if the action for its expropriation prospers, would be broken up into small lots and sold to some forty-seven tenants with about two hundred dependents. This Court does not overlook defendants' contention that at least four of the said tenants have already lands of their own aside from those portions of the property in question which they occupy. These alleged land-owning tenants, however, were included by plaintiff among those for whose benefit these proceedings were instituted, because they actually are tenants of portions of the property in question, hence, it would not seem fair or just that they be left out. In any event as observed by counsel for the plaintiff during the trial, when plaintiff is actually declared entitled to expropriate the property in question, it is for plaintiff to screen and process the tenants qualified to purchase the subdivided lots thereof, and if land-owning tenants are found disqualified to make said purchase, then the aforesaid four tenants may be ruled out from making said purchase. In fine, the fact that four of the forty-seven tenants have properties of their own aside from those portions occupied by them in the property in question, is no argument against these expropriation proceedings.

"The point is also stressed that defendant Cirilo P. Baylosis had already sold portions of his property to his other co-defendants (except N. V. Sinclair,) and that the said co-defendants individually own only small portions thus sold to them, hence, the present expropriation in effect amounts to the taking of property from one private citizen and delivering it to another private citizen. The point loses much force when it is considered that all the said sales in favor of the co-defendants were made by defendant Cirilo P. Baylosis long after the latter was officially notified that the Government was contemplating to expropriate his property. The notice was served on him sometime on January 17, 1949, whereas the sales made by him are respectively dated as follows:

Purchasers

Date of sale

Maria Lunesa

June 15, 1950

Paslova Baylosis

July 11, 1950

Spouses Marcelo Basit and Magdalena Bayungan

July 24, 1950

Spouses Tomas Asuncion and Bonifacio Bayungan

July 1, 1950

Spouses Juan Gonzales and Raymundo Hernandez

June 15, 1950

Spouses Tirso de Padua and Maria Dolores Bayungan

July 24, 1950

Spouses Benito P. Baylosis and Macaria L. Torres

May 22, 1950

Spouses Alejandro Abellera and Juliana Camellon

May 29, 1950

Spouses Luis Baylosis and Manuela Pineda

July 11, 1950

Spouses Patricio M. Laguardia and Erlinda Apacible....

July 24, 1950

Spouses Roberto Capocn and Gavina P. Baylosis

May 29, 1950

Add to what had just been said the further fact that most of the purchasers are close relatives of defendant Cirilo P. Baylosis, the striking proximity of the respective dates of sale, and the circumstances that the said defendant litigated alone with respect to said property in the tenancy cases which he filed with the Office of the Tenancy Law Enforcement Division—and mere suspicion crystalizes into strong persuasion that the said sales were simulated and calculated to head off and defeat the expropriation proceedings.

"Defendants' further claim that the property authorized to be expropriated is the Lian Estate, and not the property in question, is decisively answered by Exhibit K for the plaintiff, elsewhere quoted in this decision wherein it is stated that the Board of Directors of the Rural Progress Administration recommended the 'acquisition either by direct purchase or expropriation proceedings of lands owned by Atty. C. Baylosis at Lian, Batangas.' It is also argued that under section 3 of Lands Administrative Order No. R-3, approved on November 15, 1951, 'Except in special cases, no proceedings shall be initiated for the appropriation of an estate unless the area, thereof be * * * at least 100 hectares if for agricultural purposes.' In the first place, this section came into force on November 15, 1951, whereas these proceedings were started on February 6, 1951. In the second place, the cited section makes exception of special cases, of which these proceedings may be one in the light of the consideration above set out. And, in the third place, an administrative order has hardly the force and effect of law that is binding and controlling upon the courts. Defendants' claim that Executive Order No. 376 is null and void, has not been pressed or touched upon in their memoranda, and may therefore be deemed as abandoned.

"The facts of the Guido case which is cited in full and relied upon by defendants in their memoranda, are a far cry from those in the case at bar. There the land involved is commercial and measures a little over two hectares while here the property in question is irrigated agricultural land with an area of from sixty-seven to seventy-seven hectares. The property sought to be expropriated in the present proceedings have been occupied by tenants (for whose benefit it is being condemned) and by their predecessors-in-interest from time immemorial, having admittedly cleaned, cleared and introduced improvements thereupon, while these circumstances do not obtain in the cited Guido case. In the present case, one of the principal grounds for expropriation is to prevent the strained relation between the defendants and the tenants from degenerating into open disturbances of law and order, a situation which is not even intimated in the Guido case. Finally, as this Court grasps it, expropriation was denied in the Guido case because the proceedings therein were not clothed with a public purpose, whereas in the present

case, as above stated, the condemnation of the property in question is not only in pursuance of constitutional and statutory provisions, but also in promotion of public peace and order.

"In view of all the foregoing, the separate motions to dismiss filed by the defendants are hereby overruled, and the plaintiff is hereby declared entitled to take the property sought, to be condemned for the public use described in plaintiff's second amended complaint, upon the payment of just compensation to be ascertained by commissioners to be appointed by the Court for this purpose, with the costs against the defendants."

For the rest it is sufficient to state that the above quoted order is in complete accord with our decision promulgated on October 12, 1953 in G. R. No. L-4703, Rural Progress Administration vs. Clemente G. Reyes, wherein the lot expropriated is "much smaller than the parcels involved in the case at bar, the fundamental reason of the Court being that it formerly formed' part of a big landed estate and that "La extension del terreno no ese el unico factor que determinaria su expropiabilidad. Para interpretar dicha ley hay que buscar inspiration en esta disposicion de la ley fundamental: 'El Estado cuidara de premover la juaticia social a fin de asegurar el bienestar y la estabilidad efionomica de todo el pueblo/ (Art. 5, Titulo II)." The majority may be correct if the basis of the present expropriation proceedings is merely the inherent power of the State to condemn private property for public use, and in the absence of section 4 of Article XIII of the Constitution which provides that "the Congress may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals.' It should furthermore be remembered that the Government is buying the lots in question for the benefit of some 244 actual occupants and, considering that barrio Binu-> busan has a population of only about 1,000 inhabitants, said number is obviously substantial.

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

I am constrained to dissent from the opinion of the majority. The reasons set forth by it against the validity of the proposed expropriation strike me as arguments against the wisdom of the expropriation policies adopted by the government rather than reasons against the existence and application of the condemnation power in the present case.

The propriety of exercising the power of eminent domain under Article XIII, section 4 of our Constitution can not be determined on a purley quantitative or area basis. Not only does the constitutional provision speak of lands instead of landed estates, but I see no cogent reason why the government, in its quest for social justice and peace, should exclusively devote attention to conflicts of large proportions, involving a considerable number of individuals, and eschew small controversies and wait until they grow into a major problem before taking remedial action.

With due respect, the majority opinion proceeds on two assumptions, neither of which I consider justified: first, that section 4, Article XIII, is an end in itself, when actually it is but one of the jneans chosen by the framers of the Constitution to attain social justice, amelioration and tranquility; second, that the constitutional policy is attained by the breaking up of landed estates into smaller portions, entirely disregarding the constitutional directive that the lands condemned are to be "subdivided into small lots and conveyed at cost to individuals", i.e., the tenants and occupants. Expropriation, subdivision and resale to tenants and occupants are inseparable components of the constitutional scheme. Plainly, agrarian discontent can not be quelled, nor peace and security achieved while tenants must continue to labor for others, and are not converted into small owners themselves. There is no magic solution in the transformation of a conflict between many tenants and one landlord into a series of conflicts between many tenants and several landlords. The wasteful controversy will remain, and in fact will become more troublesome and expensive to settle, because each landowner will demand individual treatment of

his own case.

Even if we adhere strictly to the views adopted in the Guido decision, that the constitution aimed solely at breaking up large landed estates, the propriety of the proposed condemnation in the instant case is evident, since it is unquestioned that the lands here involved were originally part of the Lian Estate in 1935, when the Constitution was adopted. What large estates could have been contemplated by the constitutional provision if not those in existence at the time of its adoption? The conclusion must be that (as held in *R.P.A. vs. Reyes*, G. R. No. L-4703, October 8, 1953), all lands of the Lian Estate since 1935 became liable to condemnation for the benefit of the tenants, and any subsequent acquirer of these lands took them subject to that burden or infirmity. The reasons why these new landlords should not be allowed to escape expropriations have been previously stated and need not be repeated.

The majority says that the fact that the tenants and occupants of the land have by themselves and their ancestors been occupying and cultivating the same for many years is not sufficient justification for the expropriation. This is not the place to discuss whether actual producers deserve preferential treatment by the State, nor the demerits of absentee landlordism. It is enough to recall that this sense of injustice of the tenants is of ancient vintage and was already expressed through the symbolic "Cabesang Tales" in Rizal's "El Filibusterismo" :—

"Podeis hacer lo que querais, señor Gobernador, yo soy un ignorante y no tengo fuerzas. Pero he cultivado esos campos, mi y mi hija han muerto ayudandome a limpiarlos, y no los de ceder sino a que 61 que pueda hacer por ellos mas de lo he hecho yo. Quelos riegue primero con su sangre y que entierre en ellos a su esposa y su hija;"

Legally justified or not, such a feeling has in the past led to "impairments of public tranquility", and the records of the constitutional convention leave no doubt that in enacting Article XIII, section 4, the Convention precisely sought to avoid its resurgence.

The Constitution considered the small individual land tenure to be so important to the maintenance of peace and order and to the promotion of progress and the general welfare that it not only provided for the expropriation and subdivision of lands but also opened the way for the limitation of private land holdings (Art. XIII, section 3). It is not for this Court to judge the worth of these and other social and economic policies expressed by the Constitution; our duty is to conform to such policies and not to block their realization.

I am willing to concede that where the Legislature delegates to subordinate agencies the selection of lands to be expropriated, without setting up adequate standards to guide official action, the Courts may intervene to prevent abuses; but I am unable to see in the present case any warrant for judicial intervention. The objection that the areas sought to be expropriated are not defined can be corrected by resort to a motion for particulars under Rule 16; and the allegedly low price that the tenants wish to pay for the lands involved is not controlling on Courts that are sworn to award just compensation.

Concepcion, J., concurs.

Order reversed.

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