

CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. GERARDO GARCIA—CAMIENCITA VILLANUEVA, A, MODESTA PARAYNO—NARCISO PARAYNO, JUAN ÁSPERAS, MARÍA TABIA— SIMION DILIMAN, AQUILINO BARRIOS—...*G.R. No. L-26053. February 21, 1967*

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/67fa9d25f801/>**SANCHEZ, J.:**

Plaintiff City of Manila is owner of parcels of land, forming one compact area, bordering Kansas, Vermont and Singalong streets in Malate, Manila, and covered by Torrens titles Nos. 49763, 37082 and 37558. Shortly after liberation, from 1945 to 1947, defendants entered upon these premises without plaintiffs knowledge and consent. They built houses of second class materials, again without plaintiff's knowledge and consent, and without the necessary building permits from the city. There they lived thru the years to the present.

In November, 1947, the presence of defendants having previously been discovered, defendants Felicidad Miranda (Emigdio Egipto), Modesta C. Parayno, Benedicto Diaz, Laureano Dizo, Jose Barrientos, Elena Ramos, Estefanía, Nepacina, Modesta Sanchez, Honorio Beriño, Gloria Velasco, Ana Dequis Alunan and Benedicto Ofiaza (predecessor of defendant Carandang) were given by Mayor Valeriano E. Fugoso written permits—each labeled "lease contract"—to occupy specific areas in the property upon conditions therein set forth. Defendants Isabelo Obaob and Gerardo Garcia (in the name of Marta A. Villanueva) received their permits from Mayor Manuel de la Fuente on January 29 and March 18, respectively, both of 1948. The rest of the 23 defendants exhibited none.

For their occupancy, defendants were charged nominal rentals.

Following are the rentals due as of February, 1962:

Amount due from date of

Name

Area in Sq. m.

Monthly rental

delinquency to Feb. 1962

1. Gerardo Garcia 66.00 P7.92 P1,628.97

2. Modesta C. Parayno 87.75 10.53 379.08

3. Juan Ásperas 39.00 4.68 9.36

4. Maria Tabia 35.20 5.76 570.24
 5. Aquilino Barrios 54.00 4.32 99.36
(Leonora Euiz)
 6. Laurenano Dizo 35.00 2.80 22.40
 7. Bernabé Ayuda 39.60 3.17 323.34
 8. Isabelo Obaob 75.52 9.06 208.38
 9. Jose Barrientos 39.53 4.74 744.18
 10. Cecilia Manzano in lieu of Urbano Ramos (deceased) 46.65 5.60 Paid up to Feb. 1962.
 11. Elena Ramos 34.80 2.78 186.26
 12. Estefanía Nepacina 41.80 3.34 504.34
 13. Modesta Sanchez 33.48 2.68 444.88
 14. Marcial Lázaro 22.40 1.79 688.32
 15. Marciano Alano 25.80 2.06 255.44
 16. Honorio Beriño 24.00 1.92 188.16
 17. Gloria Velasco 32.40 2.59 56.98
 18. Wilarico Ricamata 45.83 3.67 739.68
 19. Benedicto Diaz 40.20 4.82 Paid up to March 1962.
 20. Ana Dequis Alunan 64.26 7.71 30.84
 21. Lorenzo Carandang 45.03 5.40 437.40
 22. Juan N. Pecayo 25.52 3.06 30.60
 23. Felicidad Miranda 48.02 5.76 132.48
- =====
- P7,580.69

Epifanio de los Santos Elementary School is close, though not contiguous, to the property. Came the need for this school's expansion; it became pressing. On September 14 1961, plaintiff's City Engineer, pursuant to the Mayor's directive to clear squatters' houses on city property, gave each of defendants thirty (30) days to vacate and remove his construction or improvement on the premises. This was followed by the City Treasurer's demand on each defendant, made in February and March, 1962, for the payment of the amount due by reason of the occupancy and to vacate in fifteen (15) days. Defendants refused. Hence, this suit to recover possession.[2]

The judgment below directed defendants to vacate the premises; to pay the amounts heretofore indicated opposite their respective names; and to pay their monthly rentals from March, 1962, until they vacate the said premises, and the costs. Defendants appealed.

1. We are called upon to rule on the forefront question of whether the trial court properly found that the city needs the premises for school purposes.

The city's evidence on this point is Exhibit E, the certification of the Chairman, Committee on Appropriations of the Municipal Board. That document recites that the amount of P100,000.00 had been set aside in Ordinance 4566, the 1962-1963 Manila City Budget, for the construction of an additional building of the Epifanio de los Santos Elementary School. It is indeed correct to say that the court below, at the hearing, ruled out the admissibility of said document. But then, in the decision under review, the trial judge obviously revised his views. He there declared that there was need for defendants to vacate the premise for school expansion; he cited the very document, Exhibit E, aforesaid.

It is beyond debate that a court of justice may alter its ruling while the case is within its power, to make it conformable to law and justice.[3] Such was done here. Defendants' remedy was to bring to the attention of the court its contradictory stance. Not having done so, this Court will not reopen the case solely for this purpose.[4]

Anyway, elimination of the certification, Exhibit E, as evidence, would not profit defendants. For, in reversing his stand, the trial judge could well have taken—because he was duty bound to take—judicial notice [5] of Ordinance 4566. The reason being that the city charter of Manila requires all courts sitting therein to take judicial notice of all ordinances passed by the municipal board of Manila.[6] And, Ordinance 4566 itself confirms the certification aforesaid that an appropriation of P100,000.00 was set aside for the "construction of additional building" of the Epifanio de los Santos Elementary School.

Further more, defendants' position is vulnerable to assault from a third direction. Defendants have absolutely no right to remain in the premises. The excuse that they have permits from the mayor is at best flimsy. The permits to occupy are revocable on thirty day's notice. They have been asked to leave; they refused to heed. It is in this factual background that we say that the city's need for the premises is unimportant. The city's right to throw defendants out of the area cannot be gainsaid. The city's dominical right to possession is paramount. If error there was in the finding that the city needs the land, such error is harmless and will not justify reversal of the judgment below.[7]

2. But defendants insist that they have acquired the legal status of tenants. They are wrong.

They entered the land, built houses of second class materials thereon without the knowledge and consent of the city. Their homes were erected without city permits. These constructions are illegal. In a language familiar to all, defendants are squatters.

Since the last global war, squatting on another's property in this country has become a widespread vice- It was and is a blight. Squatters' areas pose problems of health, sanitation. They are breeding places for crime. They constitute proof that respect for the law and the right of others, even those of the government are being flouted. Knowingly, squatters have embarked on the pernicious act of occupying property whenever and wherever convenient to their interests—without as much as leave, and even against the will, of the owner. They are emboldened seemingly because of their belief that they could violate the law with impunity. The pugnaciousness of some of them has tied up the hands of legitimate owners. The latter are thus prevented from recovering possession by peaceful means. Government lands have not been spared by them. They know, of course, that intrusion into property, government or private, is wrong. But, then, the mills of justice grind slow, mainly because of lawyers who, by means fair or foul, are quite often successful in procuring delay of the day of reckoning. Rampancy of forcible entry into government lands particularly, is abetted by the apathy of some public officials to enforce the government's rights. Obstinacy of these squatters is difficult to explain unless it is spawned by official tolerance, if not outright encouragement or protection. Said squatters have become insensible to the difference between right and wrong. To them, violation of law means nothing. With the result that squatting still exist, much to the detriment of public interest. It is high time that, in this aspect, sanity and the rule of law be restored. It is in

this environment that we look into the validity of the permits granted defendants herein.

These permits, erroneously labeled "lease" contracts, were issued by the mayors in 1947 and 1948 when the effects of the war had simmered down and when these defendants could have very well adjusted themselves. Two decades have now elapsed since the unlawful entry. Defendants could have, if they wanted to, located permanent premises for their abode. And yet, usurpers that they are, they preferred to remain on city property.

Defendants' entry as aforesaid was illegal. Their constructions are as illegal, without permits. [8] The city charter enjoins the mayor to "safeguard all the lands" of the City of Manila.[9]

Surely enough, the permits granted did not "safeguard" the city's land in question. It is our considered view that the Mayor of the City of Manila cannot legalize forcible entry into public property by the simple expedient of giving permits or, for that matter, executing leases.

Squatting is unlawful and no amount of acquiescence on the part of the city officials will elevate it into a lawful act. In principle, a compound of illegal entry and official permit to stay is obnoxious to our concept of proper official norm of conduct. Because, such permit does not serve social justice; it fosters moral decadence. It does not promote public welfare; it abets disrespect for the law. It has its roots in vice; so it is an infected bargain. Official approval of squatting should not, therefore, be permitted to obtain in this country Avhere there is an orderly form of government.

We, accordingly, rule that the Manila mayors did not have authority to give permits, written or oral, to defendants, and that the permits herein granted are null and void.

3- Let us look into the houses and constructions planted by defendants on the premises. They clearly hinder and impair the use of that property for school purposes. The courts may well take judicial notice of the fact that housing school children in the elementary grades has been and still is a perennial problem in the city. The selfish interests of defendants must have to yield to the general good. The public purpose of constructing the school building annex is paramount-[10]

In the situation thus obtaining, the houses and constructions aforesaid constitute public nuisance per se. And this, for the reason that they hinder and impair the use of the property for a badly needed school building, to the prejudice of the education of the youth of the land.[11] They shackle the hands of the government and thus obstruct performance of its constitutionally ordained obligation to establish and maintain a complete and adequate system of public education, and more, to "provide at least free public primary instruction". [12]

Reason dictates that no further delay should be countenanced. The public nuisance could well have been summarily abated by the city authorities themselves, even without the aid of the courts.[13]

4. Defendants challenge the jurisdiction of the Court of First Instance of Manila. They say that the case should have been started in the municipal court. They prop up their position by the averment that notice for them to vacate was only served in September, 1961, and suit was started in July, 1962, Their legal ground is Section 1, Rule 70) of the Rules of Court. We have reached the conclusion that their forcible entry dates back to the period from 1945 to 1947. That entry was not legalized by the permits. Their possession continued to remain illegal from incipency. Suit was filed long after the one-year limitation set forth in Section 1 of Rule 70 And the Manila Court of First Instance has jurisdiction.[14]

Upon the premises, we vote to affirm the judgment under review. Costs against defendants-appellants. So ordered.

Concepcion, C.J., Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Ruiz Castro JJ., concur.

Judgment affirmed.

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- [1] Substituted by Cecilia Manzano, R.A., p. 70 and Tr., p. 16.
- [2] Civil Case No. 51087, Court of First Instance of Manila.
- [3] Section 5, Rule 124 of the 1940 Rules of Court, now Section 5, Rule 135 of the new Rules of Court; Veluz vs. The Justice of the Peace of Sariaya, 42 Phil. 557, 563.
- [4] People vs. Singh, 45 Phil. 676, 679.
- [5] "Section 5, Rule 123, 1940 Rules of Court; Section 1, Rule 129, new Rules of Court.
- [6] Section 50, Manila Charter.
- [7] Section 3, Rule 53, 1940 Rules of Court; Section 5, Rule 51, new ule of Court. J. M. Tuason & Co., Inc. vs. Magdañg-al, . L-15539, - 30, 1962; Joson vs. Nable, 87 Phil. 337, 340; J. M. Tuason Inc. vs. de la Rosa, L-21904, October 29, 1966.
- [8] Sections 34 and 86, Revised Ordinances of the City of Manila, Ordinance No. 1600.
- [9] Section 11 (b), Manila Charter.
- [10] Dillon, Municipal Corporation, 5th Edition Vol III pp 1593-1594.
- [11] Article 694 (5), Civil. Code.
- [12] Section 5, Article xiv, Constitution.
- [13] Sitehon vs. Aquino, 98 Phil. 458, 464-466; :Halili vs. Lacsón, 98 Phil. 772, 774-775; Quinto vs. Dacson, 50 Off Gaz., No. 29, pp-5095-509:6.
- [14] Vol. I, Nuevas, Remedial Law, 1960 Ed., p. 597 and case cited; Vol. III, Moran, comments on the Rules of Court, 1963 ed., p. 274.

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