

**THE REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JUSTA G. VDA. DE GUIDO AND OSCAR CASTILLO, JUDGE, RESPONDENT.***G.R. No. L-2377. May 31, 1949*

Ponente: MONTEMAYOR, J.

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On December 31, 1947, the President of the Philippines authorized the Rural Progress Administration to expropriate a certain piece of land described in T.T. No. 9961, situated in Maypajo, Caloocan, Rizal, belonging to the respondent Justa G. Vda. de Guido, for the purpose of reselling it at cost price to bona fide tenants or occupants. Acting upon said authority and by virtue of the powers conferred by law (Executive Orders Nos. 191, 206, and Commonwealth Acts Nos. 538 and 539), the Rural Progress Administration, thru the Republic of the Philippines, filed with the Court of First Instance of Rizal civil case No. 400 (entitled Republic of the Philippines vs. Justa G. Vda. de Guido) for said expropriation. The amount of 19,730, which was then the assessed value of the land, was fixed by the lower court as the provisional value of said land, and, after the plaintiff-petitioner had deposited said amount with the provincial treasurer of Rizal, the court issued an order on January 6, 1948, ordering temporary possession in favor of the petitioner. Before actual delivery or possession was made, however, respondent Guido filed her objection not only as to the propriety of the condemnation proceedings, but also as regards the sufficiency of the deposit. The Philippine National Bank, in whose favor the land was said to have been mortgaged in the sum of P115,000, also intervened.

Acting upon the manifestation of the respondent and intervenor, the trial court issued an order on January 23, 1948, fixing the sum of P18,780 as the provisional value of the land, this being based on the new (1948) assessed value of the same. The order authorizing possession of the land by the plaintiff was lifted until the deposit of that amount could be made. On March 16, 1948, the plaintiff, in addition to the original deposit of P19,730, deposited with the provincial treasurer of Rizal a check drawn against the Rehabilitation and Finance Corporation in the sum of P99,050, thereby making a sum total of P118,780, as deposit.

On March 16, 1948, an order was issued which, besides acknowledging the actual deposit of P118,780 as required, ordered the provincial sheriff of Rizal to deliver possession of the property to the plaintiff, and possession was actually delivered by the sheriff to the chief of the legal division of the Rural Progress Administration on March 18, 1948.

Defendant Justa G. Vda. de Guido then filed a petition for certiorari and prohibition with mandatory injunction in the Supreme Court (G. R. No. L-2089), seeking the recall and cancellation of the order of March 16, 1948. This Tribunal, on March 23, 1948, issued a writ of preliminary mandatory injunction, commanding the trial court to recall its order of March 16, which granted the possession of the land to the Rural Progress Administration, until further orders. Accordingly, the trial court issued an order of March 24, 1948, recalling and cancelling its order of March 16, 1948.

Pending the hearing of that petition (L-2089) before the Supreme Court, the defendant Guido, in the

condemnation proceedings before the lower court, filed a motion before that court on March 29, 1948, seeking to deduct, from the amount of P19,730, first deposited by the plain-tiff, the amount of P7,534.52 said to represent the unpaid back and current rentals from July 1946 to March 31, 1948, due from some of the tenants occupying the land, subject of the expropriation, as appearing on a list of supposed delinquent tenants attached to her petition. Despite opposition on the part of the plaintiff-petitioner, the trial court, in its order of April 13, 1948, authorized the withdrawal of the said amount from the deposit of P19,730, and two days thereafter, the amount of P7,534.52 was actually withdrawn by defendant's counsel from the provincial treasury of Rizal.

The plaintiff filed a motion on April 19, 1948, to reconsider and set aside the order of April 13, 1948. Pending hearing of- said motion for reconsideration, defendant Guido filed another motion of June 28, 1948, alleging that from April 1 to June 30, 1948, there was due and payable to her by way of rental of tenants on the land in question, the sum of P3,981.66, but that the amount of P833.15 which constitutes the deposit made by certain tenants in the respective ejectment cases pending in the justice of the peace court of Caloocan and which had been turned over to her by order of the justice of the peace, should be deducted from the rentals due from April 1 to June 30, 1948, and she asked the court to order the provincial treasurer of Rizal to again pay the defendant out of the balance existing in his possession, the sum of P3,143.51. After hearing the motion for reconsideration of the plaintiff of April 19, 1948, the trial court, in its order of July 17, 1948, denied the same. It is said that the court held in abeyance the motion of the defendant of June 28, 1948.

Claiming that there is no other speedy and adequate remedy available to suspend, amend, annul and cancel the order of the trial court dated April 13, 1948, authorizing defendant Guido to receive the sum of P7,534.52 from the provincial treasurer of Rizal out of the amount of the deposit in his possession, the petitioner Republic of the Philippines has filed the present action of certiorari and prohibition with mandatory injunction, asking: (a) that pending final disposition of this case, a writ of preliminary mandatory injunction be issued against Hon. Oscar Castelo or any other judge who may take cognizance of civil case No. 400 of the Court of First Instance of Rizal, commanding him to recall or set aside his order of April 13, 1948; (b) that defendant Guido or her attorney be commanded to return the deposit withdrawn by her in the sum of P7,534.52 to the provincial treasurer of Rizal, and the sum of P833, to the justice of the peace court of Caloocan; (c) that a writ of prohibition be issued to the Honorable Oscar Castelo commanding him to dismiss the motion of June 28, 1948, and to refrain from entertaining any other motion that tends to diminish further the deposit of P118,780, made in the expropriation case; and (d) that, after hearing, an order be issued annulling and cancelling finally the trial court's order of April 13, 1948.

After hearing the prayer for injunction in the present case, this Court, on August 2, 1948, granted it, the writ to issue upon the filing of a bond in the amount of P200.

Respondents Justa G. Vda. de Guido and Hon. Oscar Castelo have filed their answer to the petition for certiorari and prohibition on August 2, 1948.

The theory of the petitioner is that the amount of P118,780 deposited by the petitioner in court pursuant to the provisions of section 3, Rule 69, of the Rules of Court, was made for the sole purpose of obtaining immediate possession of the land under expropriation, and that it could only be legally disposed of either as full or partial payment of the land and/or consequential damages after the right of condemnation is either granted or denied in a final and executory judgment; and that the award of the sum of P7,534.52, to be deducted from the deposit, constitutes a prejudgment on the issue of damages and will automatically defeat the purpose for which said deposit was made, for the reason that after said deduction, the amount of the deposit will fall short of the sum fixed by the court as the provisional value of the land; and that the right of the respondent Guido as landowner cannot be enforced in a single action, much less in a mere omnibus motion in the expropriation case, because the

action against each tenant is a distinct and separate cause of action. The petitioner further claims that the order of April 13, 1948, was based on an erroneous finding and conclusion. For instance, while in paragraph 3 of the said order, the court said that counsel for the plaintiff does not contest nor deny the fact that the defendants listed in Exhibit I annexed to the motion of the defendant, are in arrears in the payment of rents, and that in fact and in truth they refused and still refuse to pay the corresponding rental to the defendant on the ground that the land is under expropriation proceedings. Petitioner claims that it was not in a position to contest the amount or deny that the tenants listed in Exhibit I were in arrears or they continued refusing to pay the corresponding rental; furthermore, that it is not correct, as found by the trial court, that part of the money deposited in court had been furnished and supplied by the same tenants, because, according to the record of the case, it was the plaintiff who made the deposit of P19,730 out of its funds.

The respondents, in their answer, allege that the amount of P19,730, deposited by the plaintiff with the provincial treasurer of Rizal, was contributed by the tenants who urged the plaintiff to institute the condemnation proceedings, for the purpose of answering for the payment of the rental or damages which may be caused to respondent Guido on account of the expropriation proceedings; that the tenants, whose names appear in Annex I, attached to the motion, have refused to pay the agreed rental as early as July 1946, when the petitioner started negotiations for expropriation; that although the order of the trial court giving possession to the petitioner was recalled and cancelled, nevertheless, the tenants represented by the plaintiff and for whose benefit the present proceedings were filed, continue occupying the land; that the deposit of P19,730 made with the provincial treasurer of Rizal serves the double purpose of prepayment when the properties are finally expropriated and for indemnity for damages when the proceedings are dismissed; and that any rental due and payable on the land which respondent Guido fails to collect on account or because of the filing of the instant proceedings, is a true and legitimate element of damages assessable and chargeable against the plaintiff.

After a careful study of this case and of the issues involved, we agree with the petitioner that the issuance of the order of the trial court of April 13, 1948, was unwarranted and illegal. Even assuming for a moment that the money deposited in court in condemnation proceedings in order to give possession of the land to the plaintiff is subject to the payment of damages consisting of rentals, in a case where defendant landowner, as in the present case, is still in possession of the land, still the law contemplates that said damages be assessed during the condemnation proceedings and that they were caused by reason thereof. The amount of P7,534.52, authorized by the trial court in its order of April 13, 1948 to be paid out of the deposit made in court, according to the very respondent Guido, includes rentals due and payable as far back as July 1946. Inasmuch as the condemnation proceedings were commenced only after December 31, 1947, the date of the authority given by the President of the Philippines to institute condemnation proceedings, it is obvious that said unpaid rentals, assuming them to be damages in expropriation proceedings, were caused long before the institution of these condemnation proceedings, and consequently, were not caused by reason thereof. Furthermore, there is force in the contention of the petitioner that if, pending condemnation proceedings, the amount of the deposit required by the court so that possession of the land may be given to the plaintiff is diminished, not only once but continually as is feared in the present case in order to pay for the supposed damages consisting of rentals due and payable by the tenants of the land, then the time will come when the amount of the deposit would be so inadequate so as to render precarious the provisional possession given to the plaintiff, unless said plaintiff, from time to time, made further deposits to keep the original amount intact. Besides, as well contended by the petitioner, the damages caused in condemnation proceedings are to be assessed and established and paid for at the very end of the proceedings, that is, after a definite order shall have been issued either allowing and approving condemnation, or dismissing the petition for it, and the payment of damages is to be made after the rendition of an executory judgment. In the present case, according to the petitioner, the condemnation proceedings are far from ended. No commissioner has

as yet been appointed to ascertain the amount of compensation for the property sought to be expropriated, no commissioner's report has been submitted, and no judgment has been rendered thereon by the trial court. The law contemplates that compensation should be paid only after judgment of condemnation. (*Visayan Refining Co. vs. Camus*, 4-0 Phil, 550.)

It may be added that the premature payment from the deposit to the landowner of rentals as damages presents a risk to the Government. There is always the possibility that, for valid reasons, the Government may abandon the condemnation proceedings. Supposing that after hearing and on the basis of evidence submitted, the court decides that the landowner is not entitled to damages, or that those she claimed and for which she had been prematurely paid are far in excess of those proven by her, then we shall have a situation where the Government will be obliged to bring an action against the landowner to recover that portion of the deposit that had been prematurely and improperly paid to her.

Another consideration. The amount of P19,730, out of which the amount of rentals of P7,534.52 has been paid, had been deposited in court by the plaintiff, according to the petitioner, from its own funds, and was not deposited by the tenants so as to give the defendant some semblance of right or lien on the same. But, even assuming for a moment that it was deposited by the tenants, and that it belonged to them, there is at present no way of ascertaining the interest of each of the numerous tenants making said deposit in the amount so deposited. Some may have contributed more than the others, and it is possible that some of those making the deposit are not delinquent in the payment of rentals, or even if they were, the amount of delinquency of one may be more than that of another, or disproportionate to the amount of his contribution in the deposit with the court. How can we, therefore, summarily and arbitrarily, and without evidence, authorize the payment from said deposit of supposed back rentals without ascertaining first whether the deposit belong to the plaintiff Government or to the tenants themselves, and in the latter case, the interest of each particular tenant in the deposit compared to his supposed back or current rentals? Furthermore, there is evidence to the effect that the respondent Guido had filed ejectment proceedings in the justice of the peace court of Caloocan against at least some of the tenants involved. Said respondent could well pursue and obtain her remedy as to the payment of back rentals through those ejectment proceedings.

In view of the foregoing, the petition for prohibition is hereby granted. The respondent Hon. Oscar Castelo, or anyone taking cognizance of civil case No. 400 of the Court of First Instance of Rizal (entitled *Republic of the Philippines vs. Justa G. Vda. de Guido et al.*) is hereby commanded to annul and cancel his order of April 13, 1948, to dismiss the motion of June 28, 1948 of respondent Guido, and to refrain from entertaining any similar motion that would tend to diminish the deposit made in the lower court by the plaintiff in said case; and the respondent Justa G. Vda. de Guido, or her attorney, is hereby commanded to return and redeposit the sum of P7,534.52, withdrawn by them, to the provincial treasurer of Rizal. It appearing that the amount of P853 was supposedly voluntarily delivered by the justice of the peace of Caloocan to respondent Justa G. Vda. de Guido and that the same is not covered or included in the order of April 13, 1948, we refrain from making any finding or order about the same. Respondent Justa G. Vda. de Guido will pay the costs.

Pards, Feria, Pablo, Perfecto, Bengzon, Tuason, and Reyes, JJ. concur.

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