

LEE TAY & LEE CHAY, INC., PLAINTIFF AND APPELLEE, VS. FLORENCIO CHOCO, DEFENDANT AND APPELLANT.*G.R. No. L-3297. December 29, 1950*

Ponente: MONTEMAYOR, J.

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Sometime in 1941, the plaintiff Lee Tay & Lee Chay, Inc. bought a parcel of land in the City of Manila with an area of about 900 square meters known as lot No. 15-C, block No. 3053, subdivision plan 2651 of the cadastral survey of Manila. On a portion of about 400 square meters were three houses belonging to three different persons who had occupied said portion even before the purchase of the whole parcel. The defendant Florencio Choco is the owner of one of said houses and his house occupies about 100 square meters. He never paid rent to the owner since 1941. Needing this portion of 100 square meters for its lumber yard, the plaintiff brought an action for ejectment against the defendant in the municipal court to have said occupant leave the premises.

Pending proceedings in the municipal court, both the plaintiff and the municipal court received a letter from the Mayor of the City of Manila informing them of the intention of the city to acquire either by purchase or expropriation the land of the plaintiff to be resold to the bona fide occupants, pursuant to the provisions of Commonwealth Act No. 538 and Republic Act No. 267. Acting upon said letter, the municipal court suspended further proceedings and for the purpose of determining the amount of rent which the defendant should pay to the plaintiff in accordance with the provisions of Commonwealth Act No. 538, a hearing was held after which the municipal court fixed said monthly rent at P6.50 and ordered the defendant to pay the plaintiff the amount of P65 as back rentals due from February, 1948.

The plaintiff being dissatisfied with the order suspending the proceedings, appealed from said order to the Court of First Instance which latter tribunal in its decision of June 9, 1949, found and held that the defendant was a mere squatter and not a tenant within the meaning of Commonwealth Act No. 538 which Act provides that when the Government seeks to acquire, through purchase or expropriation proceedings, lands belonging to any estate or chaplaincy, any action for ejectment against the tenants occupying said lands shall be automatically suspended, for such time as may be required by the expropriation proceedings. The trial court further held that Commonwealth Act No. 538 refers to big landed estates like hacienda occupied by tenants, and that furthermore, there was no relationship of landlord and tenant between the plaintiff and the defendant, and so reversed the order appealed from and ordered the case remanded to the municipal court for trial on the merits. The defendant is now appealing the case to this Court involving as it does only a question of law.

Instead of determining this case on the question of whether the defendant is a tenant so as to fall under the provisions of Commonwealth Act No. 538, we prefer to decide it on the broader and more fundamental question of the right of the Insular Government to expropriate small parcel of land like the property in question, situated within cities, in order to resell them in small lots to bona fide occupants. In the exhaustive decision penned by Mr. Justice Tuason in the case of Guido vs. Rural Progress Administration (47 Off. Gaz., 1848),^[1] this court held that Commonwealth Act No. 539 authorizing the President of the Philippines to acquire private lands through

purchase or expropriation and subdivide the same into lots or small farms for resale at reasonable prices to the bona fide tenants or occupants, refers to big landed estates, and not to small parcels to be resold to a few; and that the Rural Progress Administration acting for the Government may not, for instance, take by condemnation a lot with an area of 1,000 or 2,000 square meters and subdivide it into small lots to be resold to occupants. In the case of *City of Manila vs. Arellano Law Colleges, Inc.* (47 Off. Gaz., 4197),^[2] following the doctrine held in the *Guido* case, we further held that the National Government may not confer upon its instrumentalities (like the City of Manila) authority which it itself may not exercise.

On the basis of the decisions of this court above cited, we hold that the City of Manila may not expropriate the parcel of land in question in order to resell it in smaller lots to the occupants thereof including the appellant herein, and that consequently, the proceedings, in the ejectment case in the Municipal Court should not have been suspended. The decision appealed from is hereby affirmed, with costs.

Moran, C.J., Pablo, Bengzon, Padilla, Tuason, Reyes and Bautista, JJ., concur.

[1] 84 Phil., 847.

[2] 85 Phil., 663.

MONTEMAYOR, J.:

I hereby certify that Mr. Justice Paras and Mr. Justice Feria voted for affirmance of the decision appealed from.

Judgment affirmed.

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