

**ATILANO ADLAWAN AND ISIDRO NEPOMUCENO, PETITIONERS, VS.
HON. JULIAN E. LUSTRE, AS THE PRESIDING JUDGE OF BRANCH XVII
OF THE COURT OF FIRST INSTANCE OF RIZAL AND WILSON SIA,
RESP...**

G.R. No. L-37787. February 27, 1978

Ponente: FERNANDO, J.

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FERNANDO, J.:

The invocation of Letter of Instruction No. 34[1] which furnished the basis for an official communication addressed to the Clerk of Court of respondent Judge Julian E. Lustre, now retired, coming from Secretary of Justice Vicente Abad Santos inviting attention to an indorsement of the then Assistant Executive Secretary Ronaldo B. Zamora[2] sufficed for this Court to issue a restraining order as prayed for by petitioners in this certiorari and prohibition proceeding. As requested by Secretary Zamora: "It will be appreciated if the writs of execution and orders of demolition for the eviction of occupants in the Tatalon Estate be suspended until such time as the beneficiaries of Letter of Instruction No. 34, authorizing the expropriation of Tatalon Estate, are determined." [3] It is undisputed that an order for execution dated October 5, 1973 had been granted as prayed for by private respondent Wilson Sia, the plaintiff in a pending civil case before respondent Judge and thereafter a writ of execution in pursuance thereof dated October 15, 1973 was issued. [4] It was followed by an order of demolition. [5] It is the contention of petitioners that by virtue of the above Letter of Instruction the aforesaid orders should not be implemented pending a determination of their status as bona fide occupants and, as such, beneficiaries of the expropriation of the Tatalon Estate.

It is well worth recalling that as far back as 1959 the then Congress of the Philippines enacted a statute providing for the expropriation of the Tatalon Estate. [6] Its validity was sustained in *J.M. Tuason & Co., Inc. v. Land Tenure Administration*, decided in 1970. [7] It was not until Letter of Instruction No. 34 dated October 27, 1972 that such expropriation could be effectively carried out. The General Manager of the People's Homesite and Housing Corporation was directed: "to promulgate such rules and regulations as may be necessary to carry out effectively the subdivision and distribution of the property among the bona fide occupants of the estate according to law after its acquisition * * *." [8] As set forth at the outset, that was the basis for the official communication of Secretary Abad Santos pursuant to a request of the then Assistant Executive Secretary Zamora.

Under appropriate circumstances, it was made clear in the leading case of *Chua A. H. Lee v. Mapa* [9] there could be a stay of execution. Nothing seems to be clearer than that such condemnation proceeding was one of the remedial measures intended to solve the grave rural and urban problems contributory to the unrest, turmoil and violence that created a martial law situation. This is evident from the opening paragraph of the aforesaid Letter of Instruction, the purpose of which was "to facilitate the implementation of the social reform program of the Government designed to improve the economic conditions in our country and the life of our people pursuant to Proclamation No. 1081, dated September 21, 1972 * * *." Moreover it is one of the acts validated by the present Constitution as part of the law of the land. [10] It would not only occasion inconvenience then but also cause

injustice to petitioners if their rights as alleged occupants and thereafter potential beneficiaries of the expropriation proceedings would be nullified by such execution.

Respondents were asked to comment on this certiorari and prohibition proceeding. Private respondent Wilson Sia, the prevailing party, as noted, in the civil case for ejectment before respondent Judge the decision in whose favor had reached the stage of finality, submitted an answer. His counsel in rather vigorous language stressed what for him was the harassment to which his client was subjected and sought the dismissal of a "vexations and nuisance lawsuit" to remove "this obstacle that have long [impeded and hindered] the use or enjoyment of this property that belongs to private respondent legally, * * *." [11] There was apparently lack of awareness of the public law question involved and the curtailment of property rights allowable under the present Constitution in view of the more expanded social justice concept. As therein provided: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits." [12] No refutation was made of the contention of petitioners based on Letter of Instruction No. 34. Counsel also completely ignored the decision of this court likewise cited by petitioners in *Miculob v. Court of First Instance of Rizal* [13] recognizing the force and effectivity of such Letter of Instruction.

Thereafter the parties were required to file their memoranda. Petitioners did so. They clarified the issue before this Court in this manner: "The only question presented in this proceeding is: whether the writ of execution issued in Civil Case No. Q-15454 (Annex 'B' of the petition) may still be enforced considering the following supervening facts and overriding factors occurring after the decision (Annex 'H' of private respondent's Answer with Defenses) was rendered on April 19, 1972: (a) a complaint to expropriate a 25-hectare portion of the Tatalon Estate had already been filed on January 23, 1973, the coetaneous deposit of the amount for its purchase had been made, and the writ of possession in favor of the Government had been issued (paragraph III, petition); (b) the issuance by the President of the Philippines of Letter of Instruction No. 34 on October 27, 1972 (paragraphs IV and V of the petition); (c) the Government thru the People's Homesite and Housing Corporation (hereinafter referred to as PHHC) having taken possession of the said 25-hectare portion, including the lot subject of Civil Case No. Q-15454, the PHHC General Manager had officially requested on November 17, 1972 that writs of execution and orders of demolition against the occupants of the Tatalon Estate by the sheriff of Quezon City be held in abeyance pending determination of status of each occupant on a 'case to case basis,' concurred in by the Secretary of Justice on December 18, 1972 (paragraph VI and Annexes 'C' and 'D' of the petition); and (d) the decision of this Honorable Court in *Miculob vs. Court of First Instance of Rizal, etc., et al.*, L-22643, August 30, 1973, holding, inter alia, that possessory actions involving lots in Tatalon Estate have been rendered moot and academic by Letter of Instruction No. 34 and its implementation (paragraph VII of the petition)." [14] As could have been expected, the private respondent in his memorandum stressed once again what he considered a blatant denial of his property rights, but in addition he did try to show that Letter of Instruction No. 34 could not be successfully invoked by petitioners. His counsel did not stop there. In rather colorful language, he gave vent once again to his contention that to uphold the theory of petitioners would be to "promote chaos, confusion and social injustice excluding (sic) red-tape and practices of the old society * * *." [15]

It would appear, therefore, that the burden of sustaining plea for a stay of execution had been successfully shouldered by petitioners. There is no justification for lifting the restraining order.

1. The *Chua A. H. Lee* decision [16] speaks unequivocally. There is full recognition therein of the power of court to grant a stay of execution for good and valid reasons. Letter of Instruction No. 34 of President Marcos comes under such a category. Its application to the problem posed by the Tatalon Estate cannot be avoided. It cannot be read in any other light considering that it is one of the earliest social justice measures issued on the very same day

the epochal Presidential Decree No. 27 decreeing the emancipation of tenants from the bondage of the soil and transferring to them the land they till was signed. As set forth in the memorandum of petitioners, the complaint for expropriation was filed on January 23, 1973. There was a deposit of the amount purchased and a writ of possession in favor of the government issued. Its power under the appropriate official agency to distribute the lots in the Tatalon Estate to the beneficiaries of its choice cannot be denied. All the petitioners sought from respondent Judge was to be given the opportunity to be included among those entitled to such boon. Their plea was not heeded notwithstanding Letter of Instruction No. 34 and the official communication from the Secretary of Justice. Respondent Judge ought to have acted otherwise. In failing to do so, he furnished the occasion for this certiorari and prohibition proceeding. The Chua A.H. Lee decision would have been applicable even if this particular Letter of Instruction were not issued under crisis conditions and were not ratified as apart of the law of the land. Certainly with these added considerations in mind, its controlling force becomes even more marked.

2. In thus ruling, this Court is not unmindful of any possible injustice that could be inflicted on private respondent. All that was included in the complaint before the sala presided by respondent Judge was a contract to sell in his favor.[17] In the very decision that became final and executory what was presented in evidence was a xerox copy of such contract to sell by the J. M. Tuason & Co., Inc. as vendor and private respondent as vendee.[18] That gave rise to the right he could vindicate judicially. It is equally undoubted that the law recognizes such a right and would be fully respected in case of condemnation proceedings. He is entitled in the language of the Constitution to just compensation.[19] The aforesaid contract to sell is dated July 31, 1968. He ought to have known that as far back as August 3, 1959, Republic Act No. 2616 providing for the expropriation of the Tatalon Estate came into force and effect. Private respondent ought to have known then that whatever right was acquired by him could thereafter be subject to the appropriate condemnation proceedings. He did gamble on the act being declared unconstitutional. Unfortunately for him on February 18, 1970, its validity as previously noted was sustained in J. M. Tuason & Co., Inc. v. Land Tenure Administration.[20] In the disposal of the lots by the government, he is still in a position to assert a claim if he falls within the terms of Letter of Instruction No. 34 or any other subsequent valid directive. As noted in Miculob v. Court of First Instance of Rizal,[21] in the resolution of this Court penned by Justice Makasiar: "In his Compliance dated and filed on July 23, 1973, the Solicitor General states that the issue as to the constitutionality of Republic Act No. 3516 has become moot and academic as a consequence of the issuance of Letter of Instruction No. 34, which now can settle all matters dealing with the acquisition of the Tatalon Estate; but added that the right of herein petitioner to file the instant petition as a tenant of the Tatalon Estate is another matter which may not become moot and academic simply because of the issuance of said Letter of Instruction No. 34 and therefore petitioner should be given the opportunity to ventilate his right to acquire a lot from the Estate in a proper administrative and/or judicial proceeding (pp. 74-76, rec.)."[22] It thus appears understandable why no mention was ever made in the pleadings of private respondent of the Miculob ruling.

WHEREFORE, the writs of certiorari and prohibition are granted and the assailed orders of execution and demolition set aside. The temporary restraining order issued by this Court on November 16, 1973 is hereby made permanent.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] Letter of Instruction No. 34 is dated October 27, 1972.

[2] Petition, par. VI, Annex D.

[3] Ibid.

- [4] Ibid, par. II, Annexes A and B.
- [5] Ibid, par. XI, Annex E.
- [6] Republic Act No. 2616.
- [7] L-21064, February 18, 1970, 31 SCRA 413.
- [8] Letter of Instruction No. 34, 1 c.
- [9] 51 Phil. 624 (1928).
- [10] Cf. Article XVII, Section 3, par. II.
- [11] Answer, par. II.
- [12] Article II, Section 6 of the present Constitution.
- [13] L-22643, August 30, 1973, 52 SCRA 317.
- [14] Memorandum for the Petitioners, 1-2.
- [15] Private Respondent's Memoranda, 7.
- [16] The Chua A. H. Lee decision has been cited in the following cases: Amor v. Jugo, 77 Phil. 703 (1946); Pascual v. Tan, 85 Phil. 164 (1949); Lapeña v. Morfe, 101 Phil. 997 (1957); Vda. de Albar & Gray v. De Carandang & Court of Appeals, 116 Phil. 516 (1962); Luzon Surety Co., Inc. v. Beson, L-26865, Jan. 30, 1970, 31 SCRA 313.
- [17] Answer with Defenses of Private Respondent, Annex C.
- [18] Ibid, Annex H.
- [19] According to Article IV, Section II, "private property should not be taken for public use without just compensation."
- [20] L-21064, February 18, 1970, 31 SCRA 413.
- [21] L-22643, August 30, 1973, 52 SCRA 317.
- [22] Ibid, 321.

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