

**THE HOMEOWNERS ASSOCIATION OF EL DEPOSITO, BARRIO
CORAZON DE JESUS, SAN JUAN, RIZAL, REPRESENTED BY ITS
PRESIDENT NAPOLEON VILORIA, PANTALEON PENARANDA, JULIAN
PENARANDA, PILAR ...**

G.R. No. L-31864. September 29, 1972

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8a3b70389e9f/>

PER CURIAM:

Petitioners filed on April 15, 1970 this action for certiorari and prohibition with preliminary injunction to set aside respondent court's questioned orders dated February 9, 1970 and March 30, 1970 denying petitioners' motions for issuance of a writ of preliminary injunction to stay the demolition and removal of their houses and structures on a parcel of public land in barrios Corazon de Jesus and Halo Halo in San Juan, Rizal, (more popularly known as "El Deposito" from the Spanish times), pending final outcome of Civil Case No. 11078 filed by them before respondent court.

Petitioners' action below was one for declaratory relief to declare as null and void as ex post facto legislation, municipal ordinance No. 89, as amended, of respondent Municipality of San Juan, prohibiting squatting on public property and providing a penalty therefor, under which ordinance, petitioners claimed, respondents were summarily demolishing and removing their houses and improvements.

On April 20, 1970, upon issuance of summons requiring respondents to answer the petition, the Court issued a temporary restraining order restraining respondents, until further orders, "from proceeding with the summary destruction, removal and demolition of all other houses found in the premises of the land in barrio Corazon de Jesus and barrio Halo Halo, San Juan, Rizal, by reason of Ordinance No. 89-Amd. as amended, passed by the Municipal council of San Juan, Rizal, on April 26, 1968 * * *."

Respondents filed their answer in due course and the case was thereafter submitted for decision with the filing by the parties of their respective memoranda in lieu of oral argument.

As restated by petitioners themselves in their memorandum, the main issue at bar is whether respondent judge "exceeded his authority and jurisdiction and gravely abused his discretion"[1] in issuing the questioned orders of February 9, and March 30, 1970, denying the preliminary injunction sought to stay demolition and removal of petitioners' houses and structures. Petitioners raise as issues also the issue of validity and constitutionality of municipal ordinance No. 89-Amended as questioned by them in their action below, and whether respondent Engineer may remove or demolish their houses without a special court demolition order under said challenged ordinance; and furthermore, "whether the filing of the petition for compulsory registration in LRC Cad. Case No. N-6, LRC Cad. Rec. No. N-511 which placed in issue the status of the land as demanded for reasons of public interest where the houses and other improvements of the petitioners as claimants in the cadastral proceeding are found, precludes the enforcement of municipal ordinance No. 89-Amd."[2]

Subsequent events have cleared up the matter of this last issue as to the alleged pendency of a petition in petitioners' favor for compulsory registration of the land in question, as shown by proceedings held in the Rizal

court of first instance and this Court as hereinafter recounted.

A motion to reopen the cadastral proceedings[3] was filed under date of August 2, 1971 by petitioners as claimants, citing the passage on June 19, 1971 of Republic Act No. 6236 which extended the time limit (not to extend beyond December 31, 1976) for filing of applications for free patents and for judicial confirmation of imperfect and incomplete titles to public agricultural lands.

The court of first instance of Rizal, Branch I, presided by Judge Emilio V. Salas had denied such reopening of the proceedings as per its order dated August 20, 1971, "it appearing that the instant case was dismissed without prejudice in our order dated April 6, 1970, which order was affirmed by the Supreme Court in its resolution in G. R. No. L-32156 dated August 10, 1970, which became final and executory since September 1, 1970." [4]

Petitioners-claimants' motion for reconsideration, notwithstanding withdrawal of the opposition of respondent municipality of San Juan, Rizal, was denied in the Rizal court of first instance's order dated November 16, 1971.

A special civil action for certiorari and mandamus was then filed on December 13, 1971 by petitioners-claimants and docketed as Case L-34438 of this Court.[5] Said action was dismissed for lack of merit per the Court's resolution therein of December 16, 1971. Reconsideration was denied for lack of merit per the Court's resolution of May 23, 1972, after the Court had received the comment of the therein respondent Metropolitan Waterworks and Sewerage System, (as successors-in-interest of Nawasa) asserting its ownership of the property since its survey in 1910 as conducted for the Metropolitan Water District (predecessor-in-interest of Nawasa) and approved by the Director of Lands. In its comment, said therein respondent MWSS further averred that within the property which had been declared for taxation purposes in the name of the old Metropolitan Water District (with a total area of 132,597 square meters, of which 14,138 square meters are used for public roads)[6] are "aqueducts and an underground reservoir", and that its predecessor--in-interest (Nawasa) had sold a portion (16,409 sq. meters) of the property to the Municipality of San Juan (on which are constructed the municipality's elementary school, home economics building and gymnasium), leased a portion thereof (4,102 sq. meters) for the municipality's public high school, and "leased some lots to those who have squatted on the said property." 50,000 square meters or five hectares of the property were likewise leased by the Nawasa to the Pinaglabanan Commemorative Commission (created by executive Order No. 263 of the President of the Philippines dated August 15, 1957)[7] for a 99-year period from August 21, 1963 for the site of the national shrine to commemorate the "Battle of Pinaglabanan" on August 28 and 29, 1896 between the Katipunan revolutionaries and the Spanish garrison defending the gun powder dump (called the "polvorin") in San Juan, Rizal.

Final entry of the dismissal order of December 16, 1971 was made as of June 12, 1972. Hence, it is quite clear that as of now, there exist no proceedings, cadastral or otherwise, questioning the public character of the land and asserting petitioners' alleged claims of ownership thereto.

On the main issue at bar, the Court is satisfied that by no means may respondent court be said to have exceeded its authority or gravely abused its discretion in issuing its questioned orders denying petitioners' motion below for a writ of preliminary injunction allegedly "to maintain the status quo" and stay demolition and removal of their illegal constructions found to be public nuisances per se and serious hazards to public health,[8] by virtue of the following principal considerations:

1. As found in respondent court's extended two-page order of February 9, 1970[9] and ten-page order of March 30, 1970[10] denying reconsideration, petitioners' motions to maintain the alleged status quo were based on the same grounds already reiterated before and denied by then Judge (now appellate associate justice) Andres Reyes who was then presiding over respondent court in an order dated September 19, 1968,[11] ' which was upheld in a similar action for certiorari by the Court of Appeals in its decision of February 4, 1969.[12]

2. In both said proceedings before Judge Reyes and the Court of Appeals, petitioners succeeded in obtaining restraining orders or preliminary writs of injunction to stay demolition, which were dissolved upon said court's handling down their order or decision on the merits of the injunction petitions submitted by petitioners. With petitioners definitely, having lost their bid to reopen the cadastral proceedings to pursue their alleged claims of ownership over the lands occupied by their constructions, supra, no further reason or justification exists to continue the stay order against the removal and demolition of their constructions.

3. As was well stated in then Judge Reyes' order of September 19, 1968, petitioners failed after several hearings "to show that they have even a color of title to entitle them to exercise the right of possession to the premises in question. On the other hand, the land is admittedly public land and consequently the petitioners have no right to possession thereof * * *." [13]

4. Petitioners' lack of right to the injunction sought by them was further shown in the Court of Appeals' decision of February 4, 1969, where it noted that "their very evidence, their documentary proof, would justify that their houses were built upon land of the Metropolitan Water District, that is to say, of the Philippine Government, therefore, such tax declarations of petitioners' houses themselves are the best proof of their admission that their possession of the lands they occupy was not and could not be adverse" [14] and that "their shanties pose a veritable danger to public health." [15]

5. No error, much less abuse of authority or discretion, could be attributed to respondent court's statements and reasons for denying the injunction sought by petitioners, as per its order of March 30, 1970, denying reconsideration, as follows:

"* * * The issues raised by the pleadings to determine whether or not the petitioners are entitled to a writ of preliminary injunction, or a status quo, in the words of the petitioners, had been resolved several times not only by this Court but also by the Court of Appeals, and this Court believes that insofar as the same grounds are concerned, they are res judicata.

* * * * *

"Lastly, the Court does not lose sight of the fact that the land in question is public land, in the sense that it is untitled. However, as the government now contends, the land in question is clothed with a public purpose to be utilized for public service by the government. This fact has not been denied and as a matter of fact, the petitioners admit that the land in question is public land. * * *"

6. The question of validity or unconstitutionality of municipal ordinance No. 89-Amended need not be resolved in this proceeding, as it should first properly be submitted for resolution of the lower court in the action below. Suffice it to note that the Solicitor General appears to have correctly stated the actual situation in that petitioners do not dispute the authority of the San Juan council to pass ordinances providing for the summary abatement of public nuisances, and that the ordinance in question may not be faulted for being ex post facto in application since it "does not seek to punish an action done which was innocent before the passage of the same. Rather, it punishes the present and continuing act of unlawful occupancy of public property or properties intended for public use." [16] At any rate, the decisive point is that independently of said ordinance, petitioners' constructions which have been duly found to be public nuisances per se (without provision for accumulation or disposal of waste matters and constructed without building permits contiguously to and therefore liable to pollute one of the main water pipelines which supplies potable water to the Greater Manila area) may be abated without judicial proceedings under our Civil Code. [17]

As stated in *Sitchon vs. Aquino*, [18] the police power of the state justifies the abatement or destruction by summary proceedings of public nuisances per se.

No error, much less any abuse of discretion, grave or otherwise, may therefore be attributed against respondent

Court in having issued its orders denying for imperative reasons of public health and welfare the preliminary injunction sought again by petitioners to allow them to continue occupying the land in question with their condemned constructions and structures.

ACCORDINGLY, judgment is hereby rendered dismissing the petition. The temporary restraining order heretofore issued on April 20, 1970 is hereby dissolved and such dissolution is declared immediately executory. No pronouncement as to costs.

Concepcion, C.J., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.

Antonio, J., did not take part.

Makalintal, J., is on official leave.

[1] Petitioners' memorandum, p. 6; Rollo, p. 119.

[2] Idem, at pp. 6-7; Rollo, pp. 119-120.

[3] Entitled "Director of Lands, petitioner vs. Napoleon Villoria, et al., claimants, Municipality of San Juan, Rizal, et al., oppositors."

[4] Annex H, petition in L-34438 of this Court, entitled "Homeowners Ass'n. of Bo. Corazon de Jesus, etc., et al., vs. Hon. Emilio V. Salas, etc., et al."

[5] The title of such action is stated in fn. 4, supra.

[6] Annex 2, Answer.

[7] Answer at Rollo, p. 82.

[8] Annexes 3, 4 and 5, Answer.

[9] 9 Annex E, petition.

[10] Annex I, petition.

[11] Annex 1, Answer.

[12] CA-GR No. 42499-R entitled "Homeowners Ass'n. of Barrio Corazon de Jesus (El Deposito) San Juan, Rizal, etc., et al. vs. Hon. Andres Reyes, et al."; Annex 1-a, Answer.

[13] Rollo, p. 91.

[14] Rollo, p. 97.

[15] Rollo, p. 99.

[16] Respondents' memorandum, p. 4.

[17] See Arts. 694, 695, 700 and 705, Civil Code.

[18] 98 Phil. 458 (1956); see also Halili vs. Lacson, 98 Phil. 772 (1956), City of Manila vs. Garcia, 19 SCRA 413 (1967).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.