

**HON. PEDRO T. SANTIAGO, JUDGE, COURT OF FIRST INSTANCE,
BRANCH 2, BATAAN, PETITIONER, VS. COURT OF APPEALS,
LUZMINIA T. BAGALAWIS, AMADO SAMSON, JULIETA T.
BAGALAWIS, CESAR SICA...**

G.R. No. L-46845. April 27, 1990

Ponente: Medialdea, J.

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Medialdea, J.:

This is a petition for review brought by a trial judge seeking the reinstatement of his order which was reversed and set aside by the Court of Appeals.

Petitioner was the presiding judge of the Court of First Instance of Bataan, Branch 2, where the petition of the Export Processing Zone Authority (EPZA) for expropriation was raffled. The subject of the expropriation was two parcels of land, Lot Nos. 190 and 293 covered by Transfer Certificates of Title Nos. 22484 and 22485 respectively, owned by private respondents who were, therefore, named as defendants in the proceeding. The power of EPZA to initiate expropriation proceedings was not an issue. The controversy was focused on the just compensation EPZA should pay the private respondents for their land. For the purpose, three (3) commissioners were appointed by the petitioner judge who later submitted their findings. But before a judgment could be rendered the parties arrived at an agreement as to the amount of compensation and the further sale to EPZA of another parcel of land covered by TCT No. 22483. Consequently, new TCTs were issued in EPZA's name. In view of this development, the parties moved for the dismissal of the case but was denied by the petitioner who ordered the submission to him of the deeds of sale.

Petitioner judge is of the opinion that having acquired jurisdiction over the case, he retains such authority and, considering that the amicable settlement was reached during the pendency of the proceeding, he has the power to determine whether the agreement was contrary to law, morals, good customs, public order and policy.

Examining the deeds of sale, the petitioner judge found that the compensations agreed upon by the parties were grossly above both the market value as declared by the private respondents and as determined by the Provincial Assessor, and are, therefore, contrary to Presidential Decree No. 76 which provides that just compensation, in cases of expropriation, shall be the current and fair market value as declared by the owner or the market value as determined by the assessor whichever is lower.

The first deed of sale concerns Lot No. 190 and the other parcel of land covered by TCT No. 22483 not subject of the expropriation proceeding which were both sold for Three Hundred Forty Nine Thousand, Six (P349,006.00) Pesos. The declared market value for Lot 190 was Four Hundred Sixty Four Thousand, Seven Hundred (P464,700.00) Pesos while the assessor determined it to be One Hundred Twenty Three Thousand Nine Hundred Eighty One Pesos and Ninety Six Centavos (P123,981.96). Sold for One Million Three Hundred Ninety Five Thousand, Nine Hundred Sixty Eight (P1,395,968.00) Pesos was Lot No. 293 as contained in the second deed of sale. The declared market value for this lot was Twenty Nine Thousand, Nine Hundred Thirteen Pesos and Sixty

Centavos (P29,913.60) while the assessor placed it at Twenty Seven Thousand Four Hundred Twenty Pesos and Eighty Centavos (P27,420.80). Accordingly, in an order dated October 29, 1975, petitioner judge rejected the "amicable settlement," declared it invalid and set the case for further proceeding. The parties' motion for reconsideration having been denied, they elevated the matter to the Court of Appeals which, as aforementioned, set aside the order of petitioner rejecting the amicable settlement and instead declared it valid. Petitioner judge, evidently motivated in protecting the government from what he perceived as a manifestly inequitable and illegal contract, filed this present petition for review.

While the issue in the Court of Appeals and that raised by petitioner now is whether the latter abused his discretion in nullifying the deeds of sale and in proceeding with the expropriation proceeding, that question is eclipsed by the concern of whether Judge Pedro T. Santiago may file this petition at all.

And the answer must be in the negative, Section 1 of Rule 45 allows a party to appeal by certiorari from a judgment of the Court of Appeals by filing with this Court a petition for review on certiorari. But petitioner judge was not a party either in the expropriation proceeding or in the certiorari proceeding in the Court of Appeals. His being named as respondent in the Court of Appeals was merely to comply with the rule that in original petitions for certiorari, the court on the judge, in his capacity as such, should be named as party respondent because the question in such a proceeding is in the jurisdiction of the court itself (See *Mayol v. Blanco*, 61 Phil. 547 [1935], cited in *Comments on the Rules of Court*, Moran, Vol. II, 1979 ed., p. 471). "In special proceedings, the judge whose order is under attack is merely a nominal party; wherefore, a judge in his official capacity should not be made to appear as a party seeking reversal of a decision that is unfavorable to the action taken by him. A decent regard for the judicial hierarchy bars a judge from suing against the adverse opinion of a higher court, x x x." (*Alcasid v. Samson*, 102 Phil. 705, 740 [1957]).

ACCORDINGLY, this petition is DENIED for lack of legal capacity to sue by the petitioner.

SO ORDERED.

Narvasa, Gancayco, and Griño-Aquino, JJ., concur.
Cruz, J., see concurring opinion.

* Impleaded as party respondent in the resolution of this Court dated October 28, 1977.

Hon Santiago vs CA : l-46845 : April 27, 1990 : J. Cruz : Concurring Opinion 150 Clean Clean 6 pt 6 pt 0 3
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CONCURRING OPINION

CRUZ. J.:

While concurring in the main with the ponencia. I believe that Judge Santiago should be admonished for his disregard of a well-known doctrine imposing upon the judge the duty of detachment in cases where his decision is elevated to a higher court for its review. The judge is not an active combatant in such proceeding and must leave it to the parties themselves to argue their respective positions and for the appellate court to rule on the matter

without his participation. In the case at bar, Judge Santiago is not merely a nominal respondent but the petitioner himself, energetically espousing his order and insisting on its affirmance by this Court after its reversal of the Court of Appeals. He has thus ceased to be judicial and become adversarial. Such a posture is not only procedurally untenable but, worse, is likely to generate the suspicion that his interest in the case is less than impartial and impersonal. I myself do not for a moment entertain this doubt as Judge Santiago's purpose is obviously to protect the government. One cannot quarrel with this objective. Nevertheless, it seems to me that the more circumspect policy is to recognize one's role in the scheme of things, remembering always that the task of a judge is to decide and not to litigate.

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