

J.M. TUASON & CO., INC., PETITIONER, VS. HONORABLE JUDGE FELIX V. MAKASIAR, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH XI; JACINTO S. PURIFICACION, PONCIAN...

G.R. No. L-26374. July 31, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

This certiorari proceeding is an apt illustration of Dean Pound's observation that the judiciary cannot altogether be immune to the zeitgeist or in Holmes' more familiar language, "the felt necessities of the times." Therein may lie the explanation for entertaining such a suit assailing an order of respondent Judge merely holding in abeyance a resolution on the affirmative defenses of defendant J. M. Tuason and Company, now petitioner, seeking the dismissal of the action filed by private respondents on the ground of res judicata. Certainly, it cannot be said that in thus merely postponing the ruling sought, a grave abuse of discretion was committed. At the time of the filing of this petition, on August 3, 1966, however, the atmosphere, both in the business world and among homeowners in certain exclusive residential areas, was rife with misgivings and apprehensions occasioned by a joint decision of the late Judge Eulogio Mencias,[1] in January of 1965, adjudging null the title of petitioner to a vast tract of land in the Greater Manila area, a considerable portion of which had been disposed of to quite a number of innocent purchasers, including a few educational and business institutions. That is the very title which was likewise questioned in the complaint before respondent judge. Under the circumstances, with the rights of so many parties affected, it was deemed appropriate by this Court to require an answer, as the aforesaid decision of Judge Mencias having in the meanwhile been appealed to it, this controversy might as well be looked into. Whatever ruling would be handed down would have a definitive character and could set at rest the vexing question of the times, at least on that particular matter.

Last month, this Court, in an en banc decision of the aforesaid three cases,[2] reversed and set aside the appealed decision of Judge Mencias. An exhaustive and elaborate opinion of 75 pages, penned by Justice Calixto O. Zaldivar, discussed in detail each and every point of attack against the right of petitioner to the two parcels embraced in the original Certificate of Title No. 735 and clearly demonstrated its futility. Thus the cause celebre that had during all the years spawned so many litigations may be said to be set at rest. It is only on that basis certainly, not on any error that did infect the challenged order of respondent Judge, that petitioner is held entitled to the writ prayed for.

As noted in the petition, on November 16, 1964, private respondents filed a complaint in the sala of respondent Judge in the Court of First Instance of Rizal, to annul the decision and Decree in LRC No. 7681 as well as to annul Torrens Title No. 735, with the end in view of recovering ownership and possession of 44 hectares, more or less, originally covered by Torrens Title No. 735.[3] Petitioner filed a motion to dismiss the complaint dated January 1, 1965 on the grounds of lack of cause of action, prescription, and res judicata.[4] After hearing, its motion to dismiss was denied by the lower court in its order dated February 2, 1965.[5] It then filed its answer,

later amended.[6] There was likewise a motion, it submitted for a preliminary hearing on the affirmative and special defenses alleged in its answer, namely, the lack of cause of action, the absence of jurisdiction, and res judicata.[7] Then came the challenged order in this petition. It reads as follows: "Resolution of the issues stated in the affirmative defenses is hereby held in abeyance until after the trial on the merits. By agreement of the parties, the trial of this case is hereby set for August 11, 1966, at 8:30 o'clock in the morning. [So ordered]."[8] It was at that stage that this petition was filed with this Court.

For reasons to be set forth, and as announced at the outset, the above order may be successfully challenged.

1. As previously noted, the order on its face certainly cannot be stigmatized as a manifestation of a grave abuse of discretion. It would be to stretch unwarrantably the meaning of such a concept if a determination by the trial judge that the need for the immediate resolution of certain affirmative defenses is not apparent and therefore could be postponed to a later date, could be termed as wayward and capricious act to be visited by the issuance of a writ of certiorari. Our decisions certainly do not so indicate.[9] For it would be unduly restrictive of the degree of autonomy which lower courts may exercise on matters of this character if a difference of opinion as to the urgency of ruling on the special defenses raised could result in appellate tribunal taking them to task. To repeat, the order on its face is free from the fatal infirmity that petitioner would allege it suffers from. As a matter of fact, from the standpoint of a correct resolution on the legal issues raised, it may be advisable for lower courts to take time and weigh seriously the merits of the opposing legal arguments advanced. Thereby, there is a greater likelihood that the ultimate decision reached is not vitiated by errors of law. More specifically, where a litigation is between parties who may belong to the lower-income groups on the one hand and economically well-entrenched families on the other, as did happen here, there is much to be said for greater caution to be exercised by courts of justice before the claims of the former are adjudged to be bereft of support in legal norms. In a true sense that is to abide by the social justice concept of the Constitution,[10] with its now accepted meaning that he who has less in life should have more in law.[11]

2. There is need to make mention of the above considerations because, the foregoing views and notions notwithstanding, the writ prayed for must be granted. With the disposition by this Court in the recently-decided *Benin vs. Tuason*, no other outcome can be expected. Once again, the title of petitioner to the disputed lots has been affirmed. As was pointed out by Justice Zaldivar, it has invariably been so from *Bank of the Philippine Islands vs. Acuña*,[12] a 1933 decision.

WHEREFORE, the writ of certiorari prayed for is granted. With respondent Judge, the Honorable Felix V. Makasiar, having in the meanwhile been made an Associate Justice of this Court, the judge who has been appointed to his sala is ordered to dismiss Civil Case No. 8470 of the Court of First Instance of Rizal. Without pronouncement as to costs.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.
Barredo, J., took no part.

[1] *Benin vs. Tuason*, Civil Case No. 3621 of the Court of First Instance of Rizal; *Alcantara vs. Tuason*, Civil Case No. 3622, and *Pili vs. Tuason*, Civil Case No. 3623.

[2] *Benin vs. Tuason*, L-26127; *Alcantara vs. Tuason*, L-26128; *Pili vs. Tuason*, L-26129, June 28, 1974.

[3] Cf. *Petition*, par. 4.

[4] *Ibid*, par. 5.

[5] Ibid, par. 6.

[6] Ibid, par. 7.

[7] Ibid, par. 8.

[8] Order of Respondent Judge dated July 7, 1966.

[9] Cf. *Treasurer of the Philippines vs. Encarnacion*, 93 Phil. 610 (1953); *Johnston Lumber Co., Inc. vs. Court of Tax Appeals*, 101 Phil. 151 (1957); *Betting Ushers Union vs. Jai Alai*, 101 Phil. 822 (1957); *Chioco vs. Padilla*, 105 Phil. 225 (1959); *Narag vs. Cecilio*, 109 Phil. 299 (1960); *General Shipping Co. vs. Pinoon*, 111 Phil. 657 (1961); *Lazatin vs. Twano*, 112 Phil. 733 (1961).

[10] According to Article II, Section 6 of the Constitution: "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."

[11] Cf. *Del Rosario vs. De los Santos*, L-20586, March 21, 1968, 22 SCRA 1196.

[12] 59 Phil. 183. The other cases cited by him follow: *J.M. Tuason & Co., Inc. vs. Bolanos*, 95 Phil. 106 (1954); *J.M. Tuason & Co., Inc. vs. Santiago*, 99 Phil. 615 (1956); *J.M. Tuason & Co., Inc., vs. de Guzman*, 99 Phil. 281 (1956); *Tiburcio vs. PHHC*, 106 Phil. 477 (1959); *J.M. Tuason & Co., Inc. vs. Register of Deeds*, L-12760, Aug. 29, 1961, 2 SCRA 1018; *J.M. Tuason & Co., Inc. vs. Magdangal*, L-15539, Jan. 30, 1962, 4 SCRA 84; *J.M. Tuason & Co., Inc. vs. Aguirre*, L-16827, Jan. 31, 1963, 7 SCRA 109; *Galvez vs. J.M. Tuason & Co., Inc.*, L-15644, Feb. 29, 1964, 10 SCRA 344; *PHHC vs. Mencias*, L- 24114, Aug. 16, 1967, 20 SCRA 1031; *Varsity Hills vs. Navarro*, L-30889, Feb. 29, 1972, 43 SCRA 503.

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