

**SANTIAGO MENDOZA, CARMEN URBANO, MANUELA URBANO,
RENATO DE GUZMAN, RAQUEL DE GUZMAN, ROSETTE DE GUZMAN,
AND ROMEO DE GUZMAN, PETITIONERS, VS. NATIONAL HOUSING
AUTHORITY AND ANGE...**

G.R. No. L-58058. January 30, 1982

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Petition for prohibition, with a prayer for the issuance of a writ of preliminary injunction and/or restraining order, to restrain the respondents from the threatened demolition of the petitioners' houses situated in Barangay Tatalon, Quezon City; and to declare Presidential Decree No. 1472 unconstitutional.

There is no dispute as to the material facts. The petitioners are occupants of certain portions of the Tatalon Estate in Quezon City. The petitioner Santiago Mendoza claims ownership over a portion with an area of 8.5 hectares which he acquired from the DEUDORS, as evidenced by an AGREEMENT entered into by him and Hilario M. Andaya, Valente M. Andaya, and Calixta M. Andaya on December 4, 1969,[1] while the petitioners Carmen Urbano and Manuela Urbano claim title to a portion with an area of 1,500 sq.m. by virtue of a contract, dated May 4, 1951, and denominated DEED OF TRANSFER OF RIGHTS TO, INTERESTS IN AND POSSESSION OF A RESIDENTIAL LOT entered into by them and Tomasa F. de Salanga[2] who, in turn, acquired the property from Pedro Deudor on March 2, 1949.[3] The petitioners Renato, Raquel, Rosette, and Romeo, all surnamed de Guzman, upon the other hand, are claiming title over a portion with an area of 1,700 sq.m. which they inherited from their father Serafin de Guzman, who also acquired it from Tomasa F. de Salanga on September 6, 1957.[4] The lot is part of the land which Tomasa F. de Salanga acquired from Pedro Deudor on March 2, 1949.[5]

On August 3, 1959, Republic Act No. 2616, which authorized "the expropriation of the Tatalon Estate jointly owned by the J.M. Tuason and Company, Inc., Gregorio Araneta and Company, Inc., and Florencio Deudor, et al.," for subdivision into small lots and its resale at cost to the bona fide occupants thereof, took effect without executive approval. Thereafter, the Land Tenure Administration was directed to institute the proceeding for the expropriation of the Tatalon Estate. But, before the complaint for eminent domain could be filed, the J.M. Tuason and Company, Inc., claiming to be the owner of the Tatalon Estate which was sought to be condemned, filed an action with the Court of First Instance of Rizal, Quezon City Branch, for prohibition with preliminary injunction against the Land Tenure Administration, praying that Republic Act No. 2616 be declared unconstitutional, seeking in the meanwhile a writ of preliminary injunction to restrain the Land Tenure Administration from instituting such expropriation proceeding, thereafter to be made permanent after trial. After trial, the lower court promulgated its decision holding that Republic Act No. 2616 is unconstitutional and granting the writ of prohibition prayed for. Upon appeal, however, this Court reversed the decision of the lower court and denied the petition for prohibition.[6]

On October 27, 1972, the President of the Philippines, by Letter of Instruction No. 34, issued pursuant to

Proclamation No. 1081, directed the People's Homesite and Housing Corporation "to take immediate steps towards the acquisition of the Tatalon Estate located at Quezon City, in its entirety or so much thereof as may be necessary for the purposes stated in Republic Act No. 2616, by negotiation with the known and registered owner or owners thereof or, should this be not feasible, by expropriation pursuant to the aforesaid law." In compliance therewith, the People's Homesite and Housing Corporation, representing the Republic of the Philippines, filed a complaint on January 23, 1973, with the Court of First Instance of Rizal, Quezon City Branch, docketed therein as Civil Case No. Q-17334, for the condemnation of the Tatalon Estate covered by TCT No. 42774 and TCT No. 49235.[7]

Upon a survey of the property to be condemned, it was discovered that the J.M. Tuason & Co., Inc. had disposed of a substantial portion of the Tatalon Estate and only a portion, with an area of about 25.26 hectares, out of the 109 hectares originally comprising the Estate as appearing in the certificates of title covering the land, TCT No. 42774 and TCT No. 49235, remained unsold. It was also found that a portion of the Estate with an area of about 8,1317 sq.m. was covered by another certificate of title - TCT No. 142624. In view thereof, the President of the Philippines issued Presidential Decree No. 1261 on December 12, 1977, directing the expropriation of a portion of the Tatalon Estate with an area of 25.26 hectares and designated the National Housing Authority, which had been created not only to take over the functions of the People's Homesite and Housing Corporation, but also to develop and implement programs to provide housing for the greatest number of the people,[8] as the administrator of the Tatalon Estate Housing Project. The decree also provided guidelines for the development of the Tatalon Estate, as well as for the allocation of the lots to the bona fide occupants thereof, as follows:

"SECTION 3. Allocation of lots and/or housing units in the project area shall be made by the Authority according to the following priority:

1. Present occupants who were listed in the 1958 Araneta Census List of Occupants;
2. Present occupants as determined by the Authority in its 1976 Census Survey; and
3. Squatter families in the Tatalon Estate after the 1976 Census Survey.

"In the event that the number of homelots in the expropriated area is not sufficient to accommodate all families falling under the foregoing categories, the Authority shall accommodate such excess families in any of its sites and services projects."[9]

On July 28, 1978, the Republic of the Philippines, now represented by the National Housing Authority, and the J.M. Tuason and Co., Inc. submitted a Compromise Agreement to the trial court and prayed that judgment be rendered in accordance therewith;[10] and on September 15, 1978, the trial court promulgated its decision, approving the compromise agreement and enjoining the parties to strictly follow the terms and conditions thereof, as follows:

"Parties have submitted to this Court a joint Compromise Agreement the terms of which are quoted as follows:

"1. That the plaintiff Republic of the Philippines, represented herein by the National Housing Authority and the defendant J.M. Tuason & Co., Inc. have agreed conformably with Sec. 7 of P.D. 1261 that the just compensation for the expropriation of the 25.26 hectares portion of the Tatalon Estate, subject matter of the above entitled case is THIRTY NINE MILLION EIGHT HUNDRED FORTY ONE THOUSAND THREE HUNDRED SIXTY FIVE (P39,841,365.00) PESOS, the owner's declared value as of 1973 pursuant to P.D. No. 76, less the amount of ELEVEN MILLION NINE HUNDRED FIFTY TWO THOUSAND FOUR HUNDRED NINE & 50/100 (P11,952,409.50) PESOS, representing 30% of the aforesaid declared market value 'to account for the prevalence of squatters in the area and for the lack of development in some portion,' so that, the defendant is entitled only to a net total SUM of TWENTY SEVEN MILLION EIGHT HUNDRED

EIGHTY EIGHT THOUSAND NINE HUNDRED FIFTY FIVE & 50/100 (P27,888,955.50) PESOS, as just compensation.

"2. That the total sum of TWENTY SEVEN MILLION EIGHT HUNDRED EIGHTY EIGHT THOUSAND NINE HUNDRED FIFTY FIVE & 50/100 (P27,888,955.50) PESOS shall be paid as follows:

a) The amount of FIVE MILLION FIVE HUNDRED SEVENTY SEVEN THOUSAND SEVEN HUNDRED NINETY ONE & 10/100 (P5,577,791.10) PESOS shall be paid upon signing of the Compromise Agreement.

b) The balance of TWENTY TWO MILLION THREE HUNDRED ELEVEN THOUSAND ONE HUNDRED SIXTY FOUR & 40/100 (P22,311,164.40) PESOS shall be paid in four yearly equal installment of FIVE MILLION FIVE HUNDRED SEVENTY SEVEN THOUSAND SEVEN HUNDRED NINETY ONE & 10/100 (P5,577,791.10) PESOS, without interest, as follows:

1st Installment on or before May 15, 1979;

2nd Installment on or before May 15, 1980;

3rd Installment on or before May 15, 1981;

4th Installment on or before May 15, 1982.

"3. That the defendant warrants and guarantees its absolute titles to the aforesaid properties expropriated, free from all liens and encumbrances; that for and in consideration of the foregoing payments, the defendant has consented and agreed that titles to the parcels of land listed in Annex 'A' of the Compromise Agreement totalling 25.26 hectares which are covered by its TCT Nos. 49235, 42774 and 142624 of the Register of Deeds of Quezon City and subject matter of this expropriation proceedings, be vested in the National Housing Authority;

"4. That the defendant herein has accepted, as it hereby accepts and/or has waived and renounced, as it hereby waives and renounces, any and all rights, if any, to impugn or question the validity of P.D. No. 1261 promulgated on the 5th day of December, 1977 'AMENDING REPUBLIC ACT NO. 2616, PROVIDING ADDITIONAL FUNDS FOR THE ACQUISITION OF THE TATALON ESTATE AND DESIGNATING THE NATIONAL HOUSING AUTHORITY AS THE ADMINISTRATOR OF THE TATALON ESTATE HOUSING AUTHORITY.'

"5. That the expropriation or condemnation of the 25.26 hectares portion of the Tatalon Estate subject of this expropriation Civil Case No. Q-17334 pending before this Court as mandated by Sec. 1 of P.D. No. 1261 be judicially declared and confirmed by this Honorable Court subject to the preceding paragraphs.

"WHEREFORE, the Compromise Agreement, being not contrary to law, morals, good customs, public order or public policy, is hereby approved, and judgment is hereby rendered accordingly without costs, declaring defendant's Tatalon Estate comprising of the parcels of land listed in Annex 'A' of the Compromise Agreement and covered by TCT Nos. 49435, 42774 and 142624 of the Register of Deeds of Quezon City as expropriated and condemned as mandated by P.D. No. 1261; and ordering the cancellation from the aforesaid Transfer Certificates of Titles the parcels of land enumerated in Annex 'A' and the issuance of the corresponding Transfer Certificate of Titles in the name of the National Housing Authority.

"The parties are enjoined to strictly follow the terms and conditions of the said agreement."[11]

Meanwhile, on June 11, 1978, the President of the Philippines issued Presidential Decree No. 1472, authorizing the National Housing Authority to summarily eject any and all squatters from government resettlement projects without the necessity of a judicial order.

"SEC. 2. The National Housing Authority shall have the power to summarily eject, without the necessity of judicial order, any and all squatters from squatters' colonies of government resettlement projects, as well as, any illegal occupant in any homelot, apartment or dwelling unit owned or administered by it. In the exercise of

such power, the National Housing Authority shall have the right and authority to request the help of the Barangay Chairman and any peace officer in the locality. Illegal occupant as used in this Decree shall mean to include those awardees or lessees whose right to occupy or lease the subject homelot, apartment or dwelling unit has already ceased by reason of his violation of the conditions of his award or lease agreement executed in his favor by the National Housing Authority or its predecessors-in-interest. In all these cases, however, proper notice of ejectment either by personal service or by posting the same in the lot or door of the apartment as the case may be shall be given to the squatter or illegal occupant concerned as the case may be at least 10 days before his scheduled ejectment from the premises. The Provisions of Section 2 of Republic Act No. 6026 that no awardee shall be ejected unless he is transferred to another housing project or to his hometown with the assistance of the Department of Social Welfare is hereby repealed." [12]

Thereafter, on May 8, 1980, the President of the Philippines, in line with the provisions of Presidential Decree No. 1517, which declared the entire Metropolitan Manila Area as an Urban Land Reform Zone, issued Proclamation No. 1967, proclaiming 244 sites in Metropolitan Manila, described in an annex appended thereto as "Areas for Priority Development and Urban Land Reform Zones." [13] One of the sites mentioned is "An area within Tatalon Estate, Bounded by Kaliraya Street on the North; Kabignayan, Manungal, Kitanlad and Araneta Streets on the Southwest, and Botolan Transmission lines on the Southeast." [14] It is indicated in the sketch as that portion shaded in yellow. [15]

On January 27, 1981, the National Housing Authority wrote the petitioner Manuela Urbano, informing her that her request for inclusion in the list of Tatalon Estate beneficiaries could not be favorably considered, not even for lot allocation under the third priority mentioned in Presidential Decree No. 1261, for being an absentee structure owner, and demanding that she demolish her structure built on Lot Nos. 16 and 18, Block 523 of the Tatalon Estate and vacate the premises within 15 days from receipt thereof, otherwise, the National Housing Authority would summarily demolish her structure after the expiration of the period without further notice. [16] The said petitioner sought a reconsideration of the order of demolition and the National Housing Authority, in a letter to Carmen and Manuela Urbano, dated June 2, 1981, informed them that "after a careful re-evaluation of the records of (their) petition as well as the records in the Project Office," they may now "be considered for allocation under the third priority of the squatter families in Tatalon Estate after the 1976 Census Survey established in Section 3, Par. 3 of P.D. 1261." The reconsideration, however, did not in any way alter the standing order of demolition of their structures in the lots occupied by them. [17]

In a letter, dated June 5, 1981, the National Housing Authority also informed the herein petitioners Romeo de Guzman and Renato de Guzman that after careful and judicious evaluation of the records of (their) petition, as well as the records available in the Project Office, (the) Authority finds no ground to justify a reversal of its previous decision and that (their) petition for lot allocation under P.D. 1261, is denied for lack of merit. "The decision, therefore, declaring (them) as absentee structure owners, denying (their) petition for inclusion in the 1976 Census List of bona fide residents of Tatalon Estate and ordering (them) to demolish (their) structure on the subject lot stands as ordered without any further notice." The National Housing Authority, however, offered to buy the structure in Lot 18 of Block 523 at a price to be determined by it in order to avoid economic waste, but that if the owner was not willing to sell the structure, he should demolish the same within 10 days from notice, otherwise the National Housing Authority would summarily demolish the same without further notice. [18]

In a letter dated August 27, 1981, the National Housing Authority also ordered the petitioner Santiago Mendoza, "to demolish the illegal extension of (his) structure located at Block 6, Lot 12, ERC-A, Tatalon Estate which encroaches to the adjacent lot boundaries and pose obstruction/delay in the allocation process", within 10 days from receipt thereof, otherwise the National Housing Authority would summarily demolish the illegal construction after the expiration of the period without further notice. [19]

In view of this threatened demolition of their houses, the petitioners have filed the present recourse.

The petitioners contend that the enforcement of Presidential Decree No. 1472 against them is illegal and unconstitutional as it would deprive them of their property without due process of law.

The petition is devoid of merit. To begin with, it is based upon the premise that the petitioners are owners of the lots occupied by them for having acquired them from the DEUDORS, which is false, since the property occupied by them belong to the Republic of the Philippines after the expropriation proceedings made pursuant to Republic Act No. 2616, the administration and control of which had been entrusted to respondent National Housing Authority under Presidential Decree No. 1261, issued on December 12, 1977. As a matter of fact, the petitioners Manuela Urbano, Carmen Urbano, Renato de Guzman, and Romeo de Guzman had admitted the title of the Government over said lots when they applied for inclusion in the list of "Tatalon Estate beneficiaries." [20] Besides, the land is registered in the name of the Government and its title thereto has become indefeasible. The petitioners, having actual knowledge of the expropriation of the Tatalon Estate, should have vindicated their claim of ownership to the land claimed by them in the expropriation proceedings, as intimated by the Court in the case of *J.M. Tuason & Co., Inc. vs. Land Tenure Administration*. [21] The then Justice, now Chief Justice of the Philippines Enrique M. Fernando, speaking for the Court, said:

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"7. The other points raised may be briefly disposed of. Much is made of what the lower court considered to be the inaccuracy apparent on the face of the challenged statute as to the ownership of the Tatalon Estate. It could very well be that Congress ought to have taken greater pains to avoid such imprecision. At any rate, the lower court, unduly alarmed, would consider it a deprivation of property without due process of law. Such a fear is unwarranted. In the course of the expropriation proceedings, there undoubtedly would be a judicial determination as to the party entitled to the just compensation. As of now then, such a question would appear at the very least to be premature. Reference is likewise made as to the effect of the authorized expropriation on those purchasers of lots located in the Tatalon Estate. Again, on the occasion of the expropriation, whatever contractual rights might be possessed by vendors and vendees could be asserted and accorded the appropriate constitutional protection."

But petitioners failed to do so. They cannot therefore be said to be deprived of property which is not legally theirs.

At any rate, Presidential Decree No. 1472 does not violate the constitutional due process clause since it requires proper notice of ejectment to the squatter or illegal occupant concerned either by personal service or by posting the same in the lot or door of the apartment as the case may be at least 10 days before his scheduled ejectment from the premises, which has been amply complied with in the case of the petitioners. Here, notices of ejectment were served upon the petitioners after it had been determined that they are not "Tatalon Estate beneficiaries" and, consequently, squatters on the land occupied by them. [22] As squatters, they are a public nuisance which can be abated even without judicial proceedings. [23]

The claim of the petitioners that the National Housing Authority has no jurisdiction over them since the lots occupied by them "are outside the perimeter of the appropriated area of the Tatalon Estate and are not also embraced under Proclamation No. 1967," is utterly devoid of merit. The complaint filed was for the expropriation of the Tatalon Estate covered, among others, by TCT No. 42774. The said title covers an area of about 757,946.30 square meters, more or less, and more particularly described as follows:

"A parcel of land boundary of plan Pcs-3824, being the consolidation of Blocks Nos. 235 to 241, Street Lots 4 to 9 and all of plan Psd-36950 and Lot 4-B-3-C-2-B-2 of plan Psd-18526, L.R.C. (G.L.R.). Record No. 7681, situated in Quezon City. Bounded on the NW. by Block 233 and Street Lot No. 10 of plan Psd-36950 and Lot 4-D-3-C-2-C of plan Psd-7576 (The Commonwealth of the Philippines) on the NE. by the San Juan River; on

the E. by Lot 4-B-5 of plan Psd-13540 (Manila Electric Co.); on the SE., by Lot 4-B-5 of plan Psd-3540 (Manila Electric Co.) and Blocks Nos. 232 and 231 and Street Lot No. 13 of plan Psd-36950; on the S. by España Extension and Block No. 1 of plan Psd-12582 (Philippine Trust Co.) on the SW. by Street Lot No. 2 of plan Psd-18527 and Street Lot No. 10 of plan Psd-26950; and on the W. by Block Nos. 229, 230, 231, 331, and 232 and Street Lots Nos. 1, 2, and 3 of plan Psd-36950, x x x." [24]

Street Lot No. 10 of plan Psd-36950 and Lot No. 4-D-3-C-2-C of plan Psd-7576 (Commonwealth of the Philippines, boundaries on the Northwest, are commonly called Banawe Street and Quezon Boulevard Extension, respectively, while Lot 4-B-5 of plan Psd-13540 (Manila Electric Co.) is known as the Botolan Transmission Line. Referring to the plan, [25] the parcel of land covered by TCT No. 42774 would, therefore, be that circumscribed by Banawe Street, Quezon Boulevard Extension, the San Francisco River (a branch of the San Juan River), the Manila Electric Co. Transmission Line, and Espana Extension. However, J.M. Tuason & Co., Inc. had the property subdivided under subdivision plan Psd-57920 and disposed of a considerable portion thereof, such that of the original area of the land of 757,946.30 sq.m., more or less, only a portion of about 185,157.50 sq.m., more or less, was left unsold. These unsold lots form part of the 25.26 hectares expropriated and whose titles have been transferred to the Government pursuant to the decision of the trial court of September 15, 1978. [26] Among these lots are Lot Nos. 16, 18, 20 of Block 523 and Block Nos. 527, 528, 529, 530, and 531. [27] Since the petitioners admit that "the acquired residential lots of petitioners DE GUZMAN and URBANO, are identical to Lot Nos. 16, 18, and 20, Block 523 of the Tatalon Estate, while that of SANTIAGO MENDOZA, is identical to Block Nos. 527, 528, 529, 530, and 531 of the Tatalon Estate," it is beyond question that the lots occupied or claimed by the petitioners are among those expropriated by the Government. The fact that the said lots are not included within the area proclaimed for priority development under Proclamation No. 1967, dated May 8, 1980, does not preclude the National Housing Authority from exercising administrative control and supervision over the disposition of said lots. The National Housing Authority was created by virtue of Presidential Decree No. 757, dated July 31, 1975, not only to take over the functions of the People's Homesite and Housing Corporation, but also to develop and implement housing programs, and was expressly designated, under Presidential Decree No. 1261, dated December 12, 1977, the Administrator for the national government of the Tatalon Estate. Since the lots occupied or claimed by the herein petitioners are, as previously stated, within the Tatalon Estate, the National Housing Authority has supervision and control over the disposition of the said lots.

WHEREFORE, the petition should be, as it is hereby, DISMISSED. With costs against the petitioners.

SO ORDERED. Fernando, C.J., Teehankee, Barredo, Makasiar, Fernandez, Guerrero, Abad Santos, De Castro, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur. Aquino, J., see concurrence.

[1] Rollo, p. 16.

[2] Id., p. 18.

[3] Id., p. 20.

[4] Id., p. 22.

[5] Id., pp. 24, 20.

[6] See J.M. Tuason & Co., Inc. vs. Land Tenure Administration, G.R. No. L-21064, February 18, 1970, 31 SCRA 413.

[7] Rollo, p. 31.

[8] Presidential Decree No. 757, dated July 31, 1975.

[9] Rollo, p. 27.

[10] Id., p. 18.

[11] Id., p. 49.

[12] Id., p. 52.

[13] Id., p. 53.

[14] Id., pp. 54, 83.

[15] Id., p. 55.

[16] Id., p. 60.

[17] Id., p. 56.

[18] Id., p. 58.

[19] Id., p. 80.

[20] See Annexes "L", "M", "M-1", "M-2", Rollo, pp. 56-61.

[21] Supra, Footnote 6.

[22] See Annexes "L", "M", "M-1", "M-2", Rollo, pp. 56-61.

[23] Arts. 694 & 699, Civil Code; De la Cruz vs. Tianco, G.R. No. L-19326, July 31, 1964, 11 SCRA 623; City of Manila vs. Garcia, G.R. No. L-26053, Feb. 21, 1967, 19 SCRA 413.

[24] Rollo, p. 34.

[25] Id., p. 55.

[26] Id., p. 48.

[27] Id., pp. 44-45.

CONCURRING OPINION

AQUINO, J.:

I concur because the petitioners have no cause of action for prohibition to restrain the demolition of their houses. That writ is intended to prevent a tribunal possessing judicial or quasi-judicial powers from exercising jurisdiction over matters not within its cognizance, or exceeding its jurisdiction in matters of which it has cognizance (63 Am Jur 2nd 227-228).

The respondents in this case are not exercising judicial or ministerial functions. Maybe, the petitioners have a cause of action for injunction but prohibition cannot be used to perform the function of an injunction.

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