

**BENGSON C. JUAN, MARRIED TO JOSEPHINE D. JUAN, PETITIONER,
VS. JUDGE EMMA C. MATAMMU, REGIONAL TRIAL COURT,
VALENZUELA CITY, BRANCH 269, AND THE CITY GOVERNMENT OF
VALENZUELA RE...**

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BRUSELAS, JR. J.:[*]

This resolves the Motion for Reconsideration[1] filed on 05 November 2014 by the petitioner which assails the Court's 17 October 2014 Decision[2] that denied his petition for certiorari. We found that the petition failed to show that the trial court acted with arbitrariness, despotism or capriciousness in issuing the writ of possession.

The petitioner reiterates his claim that the expropriation complaint filed by the City Government of Valenzuela was insufficient in form and in substance; that the deposit is grossly inadequate as it was not based on the current tax declaration at the time of its taking, and; that dispossessing him of his property for an indefinite period violated his right to due process.

We resolve to deny the motion.

We find it worthy to reiterate our findings in the decision sought to be reconsidered, to wit:

“xxx Before a local government unit may enter into the possession of the property sought to be expropriated, it must (1) file a complaint for expropriation sufficient in form and substance in the proper court and (2) deposit with the said court at least 15% of the property's fair market value based on its current tax declaration.[3] Here, as found by the trial court, a valid complaint for expropriation was filed by the respondent. The law does not make a prior, actual determination of a public purpose by the court as a condition precedent for the issuance of a writ of possession. It is sufficient that a specific public purpose is alleged, the validity of which the court will have to determine in the course of the proceedings.

With respect to the second requisite of a deposit of at least 15% of the property's fair market value based on its current tax declaration, the city substantially complied with such a requirement by depositing the required amount albeit the market value was based on a 2005 assessment. The trial court therefore cannot be faulted for issuing the writ of possession. The petitioner could not raise as an issue the inadequacy of the amount deposited by the City of Valenzuela because he was given the opportunity to submit an updated and a current tax declaration of the subject property. He did not, however, avail of the given opportunity.

Xxx xxx xxx

As the rules had been substantially complied with by the respondents, the court a quo simply performed what ought to be done under the premises, and that is, the issuance of the corresponding writ of possession pursuant to the proper motion of the respondent.

The petitioner had not been able to substantiate his allegation of grave abuse of discretion. Specifically, the petitioner failed to show that the trial court acted with arbitrariness, despotism or capriciousness in issuing the writ of possession. Grave abuse of discretion means such capricious and whimsical exercise of judgment amounting to excess or lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to

an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, or where the power is exercised in an arbitrary and despotic manner by reason of personal hostility.[4] Thus, unless a palpable mistake and a complete disregard of the evidence on record or a derogation of due process had been committed which would amount to a grave abuse of discretion, the grant of the petition would not be warranted.”

Thus, we find no cogent reason or justification to modify or recall our findings and conclusions as embodied in the decision sought to be reconsidered. Further, the arguments raised in the motion are mere rehash of the same arguments which have been passed upon previously.

WHEREFORE, the Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

[**]Lazaro-Javier, and Gaerlan, JJ., concur.

[*] Actg. Chairman vice PJ Reyes, Jr. per Office Order No. 409-14-RSF dated 7 Oct. 2014.

[**] Actg. Senior Member per Office Order No. 409-14-RSF dated 7 October 2014.

[1] Rollo, pp. 173-180

[2] Id, pp. 164-172

[3] Robern Development Corporation v. Judge Quitain, 373 Phil. 773, 794-801 (1999). Biglang-awa v. Hon. Bacalla, 399 Phil. 308, 317-325 (2000).

[4] Rosita L. Flaminiano vs. Arsenio P. Adriano, et.al., G.R. No. 165258. February 4, 2008, 543 SCRA 605 citing Zarate v. Maybank Philippines, Inc., G.R. No. 160976, June 8, 2005, 459 SCRA 785, 794.

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