

JUAN URIARTE Y HERMANOS, PETITIONERS, VS. JOSE TEODORO, SR., JUDGE OF THE COURT OF FIRST INSTANCE OF OCCIDENTAL NEGROS, AND THE MUNICIPAL GOVERNMENT OF LA CARLOTA, OCCIDENTAL NE...*G.R. No. L-2833. April 24, 1950*

Ponente: PADILLA, J.

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On 15 March 1947, the Municipal Council of La Carlota, province of Occidental Negros, adopted Resolution No. 7 granting authority and power to the Municipal Mayor to accept and sign deeds or instruments conveying real property to the municipality, pursuant to section 2196 of the Revised Administrative Code, or to institute condemnation proceedings for the acquisition of a site for a» junior high school in parts of the Hacienda Fe and Hacienda Caman-ug, as proposed to be established by Resolution No. 6, current series, of the Municipal Council of La Carlota, pursuant to section 2245 of the Revised Administrative Code. On 23 April 1947, the Department Head concerned approved said resolution.

Pursuant thereto, the Municipal Government of La Carlota filed a complaint to expropriate twelve (12) hectares of land to be carved out of lots Nos. 369-A, 319 and 318-A of the cadastral survey of La Carlota, owned by Pedro Uriarte, Juan Uriarte, Rosario Uriarte and Jose Uriarte and registered in their names, as evidenced by transfer certificates of title Nos. RT-1948 (T-15166), RT-1946 (T-15161) and RT-1951 (T-15165), respectively, said area needed for the junior high school site being delimited and described in the plan and technical description attached to the second amended complaint of 5 March 1948 and made an integral part thereof.

The amended complaint just referred to recites the resolution of the Municipal Council of La Carlota and the approval thereof by the Secretary of the Interior, the fact that the land sought to be expropriated had not been applied to any public use and has been selected for the site of a junior high school in a manner compatible with the greatest public good and the least injury to private interests, the assessed value of the land sought to be condemned, and the deposit of P5,000 to answer for the value thereof, and ends with the prayer that an order be entered authorizing the plaintiff Municipal Government of La Carlota to take immediate possession of parts of lots Nos. 369-A, 319 and 318-A, as delimited and described in the plan and technical description attached to the complaint; that commissioners be appointed to determine the reasonable market value of the land to be expropriated; that after proper legal proceedings, the defendants be paid the reasonable market value of their land and the plaintiff municipal corporation be declared owner thereof in fee simple; and that it be granted such other remedies as justice and equity warrant.

Instead of answering the amended complaint just described, the defendants filed a motion under section 4, Rule 69, wherein they admit the right of the Municipal Government of La Carlota to condemn private property for public use, but deny that an area of twelve (12) hectares to be carved out of lots Nos. 369-A, 319 and 318-A, as delimited and described in the plan and technical description attached to the complaint, is needed for such public

use and purpose; that P60.30 per hectare is the assessed value of the land sought to be expropriated; and that P5,000 was deposited in accordance with section 3, Rule 69. Nevertheless, the defendants admit that the site for the junior high school was selected in a manner compatible with the greatest public good and the least injury to private interests (paragraph six [6] of the motion). By way of special defense, the defendants claim that the Municipal Government of La Carlota does not need more than twelve (12) hectares for the site of the junior high school, five (5) hectares of which should be taken from the Hacienda Caman-ug or lot No. 932 owned and registered in the name of Cesar Ledesma and eight (8) hectares from their lots; that these eight (6) hectares adjoining lot No. 932 had been planted since time immemorial to sugar cane, their market value is P1,000 per hectare and their assessed value is P700 per hectare; that in the part of the land sought to be condemned for public use, there are sugar cane ratoons valued at P200 per hectare; that the court, and not the plaintiff municipal corporation, after hearing the parties and their evidence, must determine the amount the plaintiff should deposit as required by section 3, Rule 69, of the Rules of Court, which must be a cash deposit, unless the court should authorize "the deposit of a certificate of deposit of a depository of the Republic of the Philippines payable on demand to the Insular or Provincial Treasurer, as the case may be, in the amount directed by the court to be deposited;" that the alleged deposit had not been made as required by the aforesaid section and rule of the Rules of Court, because it is a check issued by the municipal treasurer of La Carlota and is still in his possession; and that that part of the land sought to be expropriated need not be that which adjoins the provincial road, because if the recommendation of the National Urban Planning Commission were to be followed, the main access to the high school site should be, for traffic considerations, from Agustin street and not from the provincial road. Upon these allegations the defendants pray that the court set a date for hearing to afford the parties an opportunity to present evidence in support of their respective allegations; that the court determine the value of the land to be expropriated, which should be not more than eight (8) hectares, and of the sugar cane ratoons standing or growing in said land; that the court fix the amount to be deposited in the provincial treasury either in cash or by means of a certificate of deposit of a depository of the Republic of the Philippines; that the plaintiff municipal corporation be ordered to amend the plan and technical description so that the area of the defendants' land to be expropriated be eight (8) hectares only; that immediate delivery of possession of the land sought to be expropriated be held in abeyance until after the court shall have determined the area of the land to be expropriated and the amount to be deposited by the plaintiff municipal corporation in the manner required by the rules of court; and that the final order of the court expressly provide that the land to be expropriated shall be used solely and exclusively for the buildings of the junior high school, campus and orchards, the latter to form part of the site of the said junior high school.

On 1 April 1948, upon motion of the Municipal Government of La Carlota, the court directed the sheriff to deliver to, and to place in possession of, the plaintiff municipal corporation, the tract of land delimited and described in the plan and technical description attached to the second amended complaint. A motion for reconsideration of the previous order filed on 5 April was denied by the court on the 12th of the same month. A motion for reconsideration of the last order filed on 17 April was denied by the court on the 24th following. On 26 April, the defendants prayed that the case be set for hearing to afford the parties an opportunity to introduce evidence in support of their respective contentions. On 7 February 1949, the case was called for hearing by the judge presiding, over the second branch of the Court of First Instance of Occidental Negros. After a statement made by counsel for the defendants that the only question at issue was the area of the land to be expropriated, the case was submitted for decision. On 9 February, the court entered an order holding that the determination of the area or size of private lands to be taken for public use is a prerogative of the legislative department of the government which cannot be usurped by the judiciary; that the main function of the court, in expropriation proceedings is to determine whether the area of the private lands to be expropriated is sufficient for the public use to which it is intended and then determine by means of competent evidence what constitutes the reasonable and just

compensation to be paid to the owner thereof; and that the questions or issues raised by the defendants in their motion of 26 April 1948 had been raised, discussed by the parties, and submitted to, and decided by, the court, so that another hearing thereon would be unnecessary and would serve no useful purpose, except to delay the final disposition of the case. Consequently, the court denied the motion of 26 April 1948, as well as the prayer made in the memorandum of 4 February 1949. The court declared further that as the plaintiff had already taken actual and material possession of the land sought to be expropriated by virtue of the order of 1 April 1948, the appointment of the commissioners on appraisal, as provided for by law, was in order. A motion for reconsideration of the previous order filed on 10 February was denied on the 15th following.

To annul and set aside the order of the respondent court of 9 February 1949; to compel it to set a date for the hearing of evidence that the parties may deem necessary to offer in support of their respective allegations in the expropriation proceedings (civil case No. 672); to issue a writ of preliminary injunction to restrain it from proceeding with the appointment of commissioners on appraisal in said case; and to restrain the commissioners appointed by it, should the latter have appointed them already, from proceeding or taking any further step in connection therewith, a petition was filed in this Court of First Instance of Occidental Negros, setting forth the proceedings had in said civil case.

The joint answer to the petition recited the fact that the petitioners, the defendants in the case in the court below, filed on 5 April 1948 a motion for reconsideration of the order of 1 April, which directed the sheriff to deliver to, or to place in possession of, the respondent municipal corporation the area of the land sought to be expropriated; that on 12 April, said motion for reconsideration was denied, after an exhaustive and comprehensive discussion of the issues raised by the petitioners herein, the defendants in the case in the court below; and that the respondent court did not deprive the petitioners of their day in court, because the case was heard, as the record shows, on 25 September 1947, 3 February, 30 March, 1948, and 3 and 7 February 1949. By way of special defense, the respondents allege that as counsel stated in open court that the petitioners did not, question the right of the respondent municipal corporation to expropriate their land, the next legal step to be taken in the proceedings, as provided for in the rules, was the appointment of the commissioners on appraisal, as laid down in the case of Municipality of San Pedro, Laguna vs. Castillo et al., (38 Off.Gaz., 429); that the petitioners' first objection to the area of the land sought to be expropriated for the junior high school site was decided in their favor in an order issued by the court on 9 February 1948, whereby the area was reduced from thirty (30) to twelve (12) hectares; that the second amended complaint filed by the respondent municipal corporation reduced the area of the land sought to be expropriated from thirty (30) to twelve (12) hectares; that the petitioners' claim that four (4) hectares of the land sought to be expropriated should be taken from the Hacienda Caman-ug belonging to Cesar Ledesma and that only eight (8) hectares of land should be taken from their land, had also been passed upon by the court in its order of 12 April 1948 already referred to; and end¹ with the prayer that the petition be denied.

Although in the caption the petition is for a writ of mandamus with preliminary injunction only, it is also for a writ of certiorari, because the petitioners also seek the annulment or the setting aside of the order of 9 February 1949, on the ground that no hearing having been held, no proof having been submitted in support of the parties' respective allegations, and no order of condemnation having been entered, as provided for in section 5, Rule 69, the order complained of is illegal. But hearing does not necessarily mean presentation of evidence. The petitioners having admitted in paragraph six (6) of their motion of 16 March 1948 that the site for the junior high school was selected in a manner compatible with the greatest public good and the least injury to private interests, as alleged in paragraph seven (7) of the second amended complaint of 5 March 1948, there was no need of a hearing on the right of the plaintiff municipal corporation to condemn the land of the defendants, and the next legal step was the fixing of the amount to be deposited by the municipality of La Carlota to enable it to take possession of the land sought to be expropriated. Of course, if the defendants had denied or objected to the plaintiff municipal

corporation's right to expropriate, because there was no need of condemning for public use a land privately owned, the court would not be authorized to proceed with an entry of an order of condemnation without hearing. But where the right to expropriate is not questioned, because the need of the land privately owned sought to be condemned for public use is admitted, and the objections to the form or manner by which the right is being exercised by the condemning party had already been passed upon, as they had been passed in the case by the court in its order of 12 April 1948, it can hardly be said that the defendants in the case in the court below, now the petitioners, had been deprived of their day in court or that the due process clause in the Constitution had been infringed upon. What the petitioners now seek to secure had been denied to them by the respondent court in the aforesaid order of 12 April 1943. If they thought that they had been deprived of any of their substantial rights, the petitioners should have appealed from the order which by its character was not interlocutory but final, and not reiterate to the same court questions that had already been passed upon by it.

There are other allegations of the petitioners which do not tally with the facts stated in the orders of the court. For instance, it is alleged that the deposit of P5,000 is still in the hands of the municipal treasurer (paragraph seven [7] of the motion of 16 March 1948). The order of 1 April 1948 states "that the amount of P5,000, Philippine Currency, has been deposited in the office of the Provincial Treasurer, this province, acknowledged under Official Receipt No. 1-921726, in accordance with Sec. 3, Rule 69 of the Rules of Court, which amount is hereby provisionally fixed by this Court to be sufficient to answer (for) the value of said 12 hectares."

On the whole, it does not appear that the respondent court had deprived the petitioners of their opportunity to be heard. On the other hand, it appears that the questions they intend to raise and the allegations they want to prove by evidence had already been passed upon by the court in its order of 12 April 1943. The proceedings, as outlined in Rule 69, may not have been followed *ad pedem literae*, but we are satisfied that they had substantially been complied with. The order of 12 April 1948 denying the motion of 5 April of the petitioners, the defendants in the case in the court below, may be deemed to be an order of condemnation, as provided for in section 5, Rule 69. Hence the step taken by the respondent court in its order of 9 February 1949, directing the parties to submit names for the appointment of two of the three commissioners is in accordance with the provisions of the rules of court.

Petition denied, with costs against the petitioners.

Moran, C.J., Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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