

ISABEL G. CABUNGCAL, ASSISTED BY HER HUSBAND, JUAN CABUNGCAL, AND SOCORRO DE PAEZ, ASSISTED BY HER HUSBAND, EMILIANO PAEZ, PETITIONERS?APPELLANTS, VS. TEOFISTO M. CORDOVA, MAYOR...

G.R. No. L-24794. September 30, 1969

Ponente: BARREDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/bca9a62c2540/>

BARREDO, J.:

Separate appeals from an order and a decision of the Court of First Instance of Negros Occidental in two related cases, Civil Cases Nos. 5186 and 7544 of said court. In G. R. No. L-24794, appellants have appealed from the order in Case No. 5186, dated April 27, 1965, holding that "ya no existen fundamentos legales para obligar al demandado alcalde de la Ciudad de Bacolod para que cumpla con la sentencia dictada en esta causa" which was for said Mayor to conduct a lottery to determine to whom to award the right to purchase a lot belonging to said City then being allocated to occupants-applicants pursuant to its Ordinance No. 13, Series of 1959. G. R. No. L-24879, in turn, is an appeal from the judgment in Case No. 7544 dismissing a complaint seeking the annulment of the award made by the same Mayor of the said lot to defendant-appellee Daisy Gustilo, as well as the pertinent judgments and orders, respectively, of the City Court in its Civil Case No. 2093 and the Court of First Instance of Negros Occidental in its Civil Case No. 5283 which not only decreed the ejectment of appellants from the same lot but also ordered the execution of the said judgment of ejectment on the ground that the same had already become final and executory.

These cases call for the proper interpretation and construction of the following provisions of Ordinance No. 13, Series of 1959 of the City of Bacolod relative to the manner of awarding and selling to occupants and applicants lots in the so-called Bacolod City RFC Subdivision acquired by said city from the Rehabilitation Finance Corporation:

"Award. - In the award or sale of any and all of the above subdivision lots, the following rules, priority or preference shall be strictly observed:

"a) Preferential right to buy shall be granted to actual occupant or occupants of the respective lot or lots as herein-after in this section defined. In the absence of actual occupant or occupants the award to buy shall be granted on a first come first served basis. By actual occupant or occupants is meant those who were actually having a house on the lot or lots concerned at the time the City of Bacolod has formally made known, in writing, of its desire to acquire this lot from the Rehabilitation Finance Corporation (RFC).

"b) x x x x x

"c) Except side-lots bordering Lacson and Burgos Streets, there shall be, at most, two awardees to a lot having 251 square meters or more in area who shall divide the lot share and share alike; Provided, however, that, should there be but two occupants as understood in subparagraph (b) hereinabove immediately preceding, they shall, upon proper applications made in accordance with Section '7' hereof, be deemed and considered

the awardees of that particular lot who shall divide the same share and share alike; Provided, further, that, should there be three or more occupants claim-ing preferences to one lot the two a-wardees to the same shall have to be determined by lottery among them; Provided, nevertheless, that, in cases where one of the three or more occupants actually occupies at least one-half of the lot, said occupant shall thereby be deemed and considered as one of the two awardees, the remaining half to be determined by lottery among the other occupants; Provided, finally, that in no case shall there be more than one (1) awardee with respect to side-lots bordering Lacson and Burgos Streets and should there be more than one claimant in and over a particular one lot, the award to only one shall be determined by lottery. However should one of the several occupants claiming preferences occupy or possess at least two-thirds (2/3) of a particular lot bordering these streets, said occupant shall thereby upon application duly made, be deemed and considered the awardee of the particular lot to the exclusion of all other occupants of the same. The award herein shall always be subject to requirements contained, made and provided, in Article IV, Section 9, and Article V, Section 5, paragraph (c) of Ordinance No. 140, Series of 1957, otherwise known as the Zoning Ordinance of the City of Bacolod." [Underscoring supplied]

In the particular lot herein in question, Lot No. 379-B-40, containing 289 square meters, there were admittedly several occupants, namely, appellants Isabel G. Cabungcal, married to Juan Cabungcal, and Socorro Paez, married to Emiliano Paez, and Pedro Hablo and Apolonia Bolivar and appellee Daisy Gustilo actually having their respective houses thereon "at the time the City of Bacolod (has) made known, in writing, (of) its desire to acquire this lot from the Rehabilitation Finance Corporation." It is undisputed that each of them occupied varying areas within said lot as follows: the Cabungcals occupied 36 square meters, the Paezes 36, Hablo 33, Bolivar 14 and Gustilo 170. Daisy Gustilo filed her application to purchase on June 3, 1958, the Cabung-cals on June 4, 1958 and the Paezes on June 9, 1958. There is no showing as to when the others filed their applications; anyway, their applications are not involved here.

Claiming that "he could award the lot without holding a lottery because petitioners, in their letters to the City Council of Bacolod (Exhibit A-4) and interview or conference with the City Mayor of Bacolod (Exhibit A-5), reiterated the desire to buy only the parts of the lot, actually occupied by their houses and did not ask for the holding of a lottery or raffle and that he was empowered by sec. 6 of the ordinance to implement its provisions when the sale of the lot is not covered by the provisions of the ordinance", on November 10, 1958, the Mayor awarded the lot to Gustilo. (Cabungcal et als. vs. Cordova etc. et als., G. R. No. L-16934, 11 SCRA 584), reason for which, the Cabungcals and the Paezes filed Civil Case No. 5186 to annul said award and to compel the Mayor to adhere to and comply with the ordinance. They won in the Court of First Instance of Negros Occidental whose de-cision was affirmed by this Court on July 31, 1964 in the case just cited.

In apparent obedience to the said decision of this Court, on March 3, 1965, the Mayor notified the parties, the Cabungcals, Paezes and Gustilo, that to determine the sole awardee of the lot in question, a lottery would be held in his office on March 16, 1965. On said date, however, Gusti-lo presented her objection to the holding of the lottery on the ground that she had already acquired the portion occu-pied by Bolivar of 14 square meters on December 8, 1958 and that occupied by Hablo of 33 square meters on September 25, 1959 and that insofar as that occupied by the Cabungcals of 36 square meters, the same was delivered to her by virtue of a writ of execution of a final judgment of ejectment and a sub-sequent order of demolition dated January 20, 1965 of the Court of First Instance of Negros Occidental,[1] and that consequently, being already the occupant of more than 2/3 of the lot in dispute, under the ordinance, she should be deem-ed and considered the awardee thereof to the exclusion of all the other occupants of the same. The Mayor found Gustilo's objection well taken, refused to conduct any lottery and, accordingly, made a report to the court a quo of his resolu-tion. (Manifestation, pp. 43-45, Record on Appeal) Whereupon, the said court issued the appealed order reading as follows:

"A U T O

"De acuerdo con la sentencia dictada en esta causa que ya ha quedado firme y ejecutoria, el Juzgado, por orden de 13 de Febrero de 1965, ordeno al de-mandado alcalde de la Ciudad de Baco-lod para que proceda a celebrar una rifa al objeto de determinar a quien de las reclamantes se debe de adjudicar el lote en cuestion y en cumpli-miento a dicha orden el referido de-mandado fijo el dia 16 de Marzo de 1965, a las 10:00 de la mañana, la celebracion de dicha rifa: pero, de acuerdo con la manifestacion por es-crito de dicho demandado sometida a este Juzgado, la mencionada rifa ya no se llevo a cabo por el fundamento de que la reclamante Daisy Gustilo ocupa y posee mds de dos terceras (2/3) par-tes de toda la Area del lote en cues-tion, por lo que de acuerdo con las disposiciones del articulo 3, parafo (c) de la Ordenanza No. 13, Serie de 1959, de la Ciudad de Bacolod, la re-ferida reclamante, Daisy Gustilo, tiene derecho a que se le declare automaticamente adjudicataria del tantas veces mencionado lote, razon por la cual la cuestion de la propuesta rifa se ha convertido en una cuestion aca-demica.

"Revisando las pruebas aducidas por las partes interesadas, las recla-mantes Isabel Cabungcal y Daisy Gustilo, el Juzgado encuentra legalmente justi-ficada la accion del demandado alcalde de la Ciudad al Abstenerse en proceder con la rifa prevista en la sentencia dic-tada en esta causa.

"POR TANTO, el Juzgado declare que ya no existen fundamentos legales para obligar al demandado alcalde de la Ciu-dad de Bacolod para que cumpla con la sentencia dictada en esta causa y se ordena esta causa se de por definitiva-mente terminada.

"Asi se ordena.

"Asi se ordena.

"Ciudad de Bacolod, Abril 27, 1965.

EDUARDO D. ENRIQUEZ

Juez"

The first point raised by appellants in G. R. No. L--24794, the Cabungcals and the Paezes, is that of alleged res adjudicata. It is contended that the issue of whether or not Gustilo is the occupant of more than 2/3 of the lot in question was already resolved in the decision of the court a quo in the present case as affirmed by this Court in G. R. No. L-16934. It is alleged that inasmuch as in the separate answers of Gustilo and the Mayor, they respect-ively alleged that Gustilo was entitled to the award because she was actually occupying more than 200 square meters, that is, more than 2/3 of the area of the lot in controversy, but failed to prove said allegation, it follows that that issue was necessarily involved in said proceeding and must be deemed resolved therein and may not, therefore, be re-opened anymore, in the present proceeding which is only a post judgment proceeding of execution. In other words, con-sidering that the order challenged herein is supposed to be an implementation of the invoked decision of this Court (in G. R. No. L-16934), the point of appellants is that inasmuch as this case is already in the stage of execution, the court a quo had no authority to reopen any matter which had been litigated by the parties before the decision.

Appellants' premise is not exactly true. While the allegations referred to did appear in the answers of Gustilo and the Mayor, for reasons which are not extant in the record, the parties evidently chose not to battle on this issue, for in the stipulation of facts submitted jointly by them and which served as the basis of the decision in G. R. No. L--16934, nothing of the pretension about Gustilo's occupancy of more than 2/3 appears, and, on the contrary, the award made by the Mayor to Gustilo which was attached to the said stipulation of facts and made part thereof, clearly stated that Gustilo was occupying only 170 square meters. Evidently, the parties adjusted the issue to the actual incontrovertible facts, for these were to the effect that whereas, the stipu-lation of facts is dated July 3, 1959, the renunciation of Hablo took place only on September 25, 1959. (pp. 14-15, Ap-pellee Gustilo's Brief.)

Clearly, therefore, the decision in G. R. No. L-16934 cannot be deemed to have resolved the issue in question. In fact, as may be seen from the decision of this Court, and as earlier stated herein, the only contention of the Mayor passed upon in that decision was his claim that he could award the lot without holding a lottery because petitioners (meaning appellants herein), in their letters to the City Council of Bacolod (Exhibit A-4) and interview and conference with the City Mayor of Bacolod (Exhibit A-5), reiterated their desire to buy only the parts of the lot actually occupied by their houses and did not ask for the holding of a lottery or raffle; and that he was empowered by section 6 of the ordinance to implement its provisions when the sale of the lot is not covered by the provisions of the ordinance", (11 SCRA 584, 588) and nothing was said therein about the issue of whether or not Gustilo was already occupying more than 2/3 of said lot. Accordingly, appellants' first assignment of error in G. R. No. L-24794 is overruled.

The rest of the assignment of errors revolves around appellants' position that since appellee Gustilo was admittedly occupying only 170 square meters or less than 2/3 of the lot when she applied on June 3, 1958, it is immaterial to the application of the above-quoted provisions of the ordinance that she subsequently acquired the additional areas in question. In fact, appellants' point is that, under the ordinance, it is the area being occupied by the parties "at the time the City of Bacolod (has) formally made known, in writing, (of) its desire to acquire this lot from the Rehabilitation Finance Corporation (RFC)" that should control.

It is not very clear to Us that such is the intent of the ordinance. We are more inclined to believe that as it is evident that the ordinance contemplates that the lot should be awarded to only one of the occupants, in the very nature of things, it tends to favor the one occupying the biggest portion thereof and the 2/3 requirement is just a convenient and expeditious device of accomplishing said purpose and of avoiding possible suspicions of arbitrariness and favoritism, hence, a substantial compliance therewith would suffice. Surely, to demand the exact computation of the measurement of the areas respectively occupied by each occupant up to the last square inch would be absurd. And as to the date of occupancy, We are not convinced that the wording of the ordinance now before Us excludes the possible construction that the date of reference is the date of the award, which is as consistent a construction as any other with the primordial purpose of the same of making the award to the occupant of the largest area. Appellants themselves admit that the phraseology of the ordinance is susceptible of this interpretation. On pages 25-26 of their brief, appellants point out:

"We began this discussion by the hypothetical proposition that to be exempted from the raffle, the applicant must possess 2/3 of the lot on the date the application to buy is filed. This is because of the absence of the phrase 'on the date Bacolod City made known its desire to acquire this RFC lot' in paragraph c) so that the said paragraph c) may be interpreted in several ways. It could mean that the applicant, to be exempted, must possess or occupy the 2/3 either:

"(1) on the day Bacolod City made known its desire to acquire the RFC lot; or

"(2) on the day of the filing of the application to buy; or

"(3) on the day of making of the award; or

"(4) on the day of the making of deed of sale; or

"(5) on any date that possession or occupation of the 2/3 or more of the lot actually takes place."

[Underscoring supplied]

In any event, to consider the date of the award as the date of reference is not an unreasonable construction of the ordinance, particularly when it is considered that 2/3 of 289 square meters, the area of the whole lot, is 192 2/3, and as early as December 8, 1958, appellee Gustilo was already occupying 170 square meters, her originally occupied area, plus 14 square meters (acquired from Apolonia Bolivar) or a total of 184 square meters, which is

only 8 2/3 square meters short of the required area, not to speak anymore of the 33 additional square meters she acquired from Hablo as early as September 25, 1959. And when it is considered further that as paragraph (a) of section 3 of the ordinance is worded, it is important only that the applicant should actually have a house on the lot, which appellee Gustilo did have, she may be deemed as having substantially fulfilled the requisites of the said ordinance.

Since the relief prayed for in the complaint below is basically for a writ of mandamus, and We find that appellants' right is not clear, much less indubitable, We hold that appellants' appeal in G. R. No. L-24794 cannot be sustained.

With this result the issues in G. R. No. L-24879 are now moot and academic. The purpose of the action therein is, at bottom, to nullify the award made to appellee Gustilo on November 10, 1958 which has already been set aside in G. R. No. L-16934. Of course, there are therein the issue also of the validity of the judgment in favor of appellee Gustilo in the ejectment case filed by her against appellants, the Cabungcals, based on her title T.C.T. 17115, acquired in consequence of the November 10, 1958 award, as well as the issue also of the validity of the writ of execution and the order of demolition issued pursuant to said judgment. As already stated, in view of Our decision in G. R. No. L-24794, under which, in effect, We hold that the award to appellee Gustilo of the lot in question would not be violative of the Ordinance 13, series of 1959, of the City of Bacolod, it will serve no useful purpose to go into the merits of the issues in G. R. No. L-24879. Not that We have not gone over the records and the contentions of the parties therein; in fact, We have done so, and, on the whole, We are satisfied there do not exist sufficient grounds to disturb the actuations and judgment appealed from.

IN VIEW OF ALL THE FOREGOING, the judgment of the court a quo dismissing the complaint in its Civil Case No. 7544 is affirmed. Affirmed also is its appealed order of April 27, 1965 in its Civil Case No. 5186. No costs in both cases.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano, and Teehankee, JJ., concur.

Reyes, JBL, J., on leave.

[1] The judgment, writ and order mentioned are the subject of G. R. No. L-24879 which is also being decided herein.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.