

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. OSCAR P. SIAT, AGUSTIN VIGONTE AND EDGARDO MAGBANUA, RESPONDENTS.

G.R. No. L-44095. April 24, 1989

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for review on certiorari seeking to set aside the Order dated May 17, 1976 of the then City Court of Puerto Princesa City, dismissing the information in Criminal Case No. 6398 for violation of P.D. No. 772 (penalizing squatting and similar acts), as well as the Order dated May 31, 1976, denying petitioner's motion for reconsideration.

Private respondents were charged in the court a quo, then presided over by respondent Judge with violation of P.D. No. 772 which penalizes squatting in an information which reads:

"That on or about the 2nd week of October, 1975 and for sometime subsequent thereto, at Bo. Bagongbayan, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring and confederating together and mutually helping one another and taking advantage of the absence and/or tolerance of the landowner, did then and there wilfully, unlawfully and feloniously occupy and build a house on the land owned by Felix Yara for residential and/or commercial purpose and refuses (sic) to vacate said land despite repeated demands to vacate made by Felix Yara, which act is a violation of Presidential Decree No. 772." (Annex 'A' to the Petition for Review, p. 11, Rollo).

The case was docketed as Criminal Case No. 6398 of the court a quo.

Upon a motion to quash filed by private respondents, alleging that the facts charged do not constitute an offense, respondent Judge dismissed the case in an Order dated May 17, 1976. In dismissing the information, respondent Judge opined:

"From the purpose clause of Presidential Decree No. 772 it is very evident that what is penalized are acts of squatting only in urban communities and not just any community. In the absence therefore of a recital in the information that Barrio Bagongbayan, Puerto Princesa City where the squatting was allegedly committed is an urban community, the court is of the opinion and so holds that the facts charged do not constitute an offense." (Annex 'F' to Petition for Review, p. 25, Rollo).

The prosecution moved for reconsideration of the said Order, but was denied in the Order dated May 31, 1976.

Hence, this petition.

The petition is premised on the sole assignment of error, to wit:

"THE LOWER COURT ERRED IN NOT HOLDING THAT PRESIDENTIAL DECREE NO. 772 PENALIZES SQUATTING IN BOTH URBAN AND RURAL COMMUNITIES."

Section 1 P.D. 772 provides, as follows:

"SECTION 1. Any person who, with the use of force, intimidation or threat, or taking advantage of the absence or tolerance of the landowner, succeeds in occupying or possessing the property of the latter against his will for residential, commercial or any other purposes, shall be punished by an imprisonment ranging from six months to one year or a fine of not less than that one thousand nor more than five thousand pesos at the discretion of the court, with subsidiary imprisonment in case of insolvency." (2nd paragraph is omitted).

The question as to which community or communities P.D. 772 applies has long been resolved by this Court in *People vs. Echaves*, 95 SCRA 663 (1980) where it was held:

"We hold that the lower court correctly ruled that the decree does not apply to pasture lands because its preamble shows that it was intended to apply to squatting in urban communities or more particularly to illegal constructions in squatter areas made by well-to-do individuals. The squatting complained of involves pasture lands in rural areas."

The aforesaid ruling was restated in *Bernardo vs. People*, 123 SCRA 365 (1983) as follows:

"The intent of the decree (referring to P.D. No. 772) is unmistakable. It is intended to apply only to urban communities, particularly to illegal constructions."

The unmistakable intent of P.D. No. 772 may be gleaned from its preamble, thus:

"WHEREAS, it came to my knowledge that despite the issuance of Letter of Instruction No. 19 dated October 2, 1972, directing the Secretaries of National Defense, Public Works and Communications, Social Welfare and the Director of Public Works, the PHHC General Manager, the Presidential Assistant on Housing and Rehabilitation Agency, Governors, City and Municipal Mayors, and City and District Engineers, to remove all illegal constructions including buildings on and along esteros and river banks, those along railroad tracks and those built without permits on public and private property, 'squatting is still a major problem in urban communities all over the country;

"WHEREAS, many persons or entities found to have been unlawfully occupying public and private lands belong to the affluent class;

"WHEREAS, there is a need to further intensify the government's drive against this illegal and nefarious practice." (Underscoring supplied).

Considering that PD 772 applies only to urban communities and the information filed in the case at bar does not allege that barrio Bagongbayan, Puerto Princesa City where the squatting was allegedly committed is an urban community, the respondent Judge did not commit any reversible error in holding that the facts charged do not constitute an offense.

ACCORDINGLY, the petition is Dismissed and the orders of the court a quo dated May 17 and 31, 1976 are Affirmed. No costs.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Cortes, JJ., concur.

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