

THE MUNICIPAL GOVERNMENT OF CALOOCAN, PROVINCE OF RIZAL, PLAINTIFF AND APPELLEE, VS. CHOAN HUAT & CO., INC., DEFENDANT AND APPELLANT.*G.R. No. L-6301. October 30, 1954*

Ponente: PADILLA, J.

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The Municipality of Caloocan, a public corporation, commenced proceedings in the Court of First Instance of Rizal to expropriate pursuant to the provisions of Republic Act No. 267 a parcel of land containing an area of 12,068 square meters, situated in barrio Calaan, municipality of Caloocan, province of Rizal, owned by Choan Huat & Co., Inc., the corporate stock of which belongs mostly to Chinese citizens. The parcel of land is known as lot No. 2468, Cadastral Case No. 28, G.L.R.O. Cadastral Record No. 2577, for which transfer certificate of title No. 68756/T-223 was issued in the name of the corporation.

The defendant moved to dismiss the complaint on the ground that Republic Act No. 267 does not apply to small parcels of land as the one sought to be expropriated invoking the rule laid down in the case of *Guido vs. Rural Progress Administration*,[*] 47 Off. Gaz., 1848; that the persons for whose benefit this proceedings is instituted are intruders who unlawfully and forcibly entered upon the parcel of land and through stealth and strategy ousted the owner's care taker therefrom; that an action for forcible entry was filed in the justice of the peace court of Caloocan against the intruders; that after hearing judgment was rendered against them which was being executed; that the delay in the execution of the judgment was due to dilatory tactics resorted to by the defendants; and that this expropriation proceedings was commenced for the purpose of frustrating the execution of the judgment in said case.

The Court entered an order dismissing the complaint with costs, on the strength of the rule laid down in the case of *Guido vs. Rural Progress Administration*, *supra*. A motion to set aside the order of dismissal was filed on the ground that the defendant corporation being owned by aliens is disqualified to acquire and hold title to lands under the rule laid down in the case of *Krivenko vs. Register of Deeds*,[*] 44 Off. Gaz., 471. The Court set aside the order of dismissal and ordered the parties to submit the names of commissioners to be appointed to appraise the value of the land in accordance with the Rules of Court. After hearing, the commissioners submitted their report against which no opposition was filed. The Court disregarded the commissioners' report that found from P10 to P30 to be the reasonable market value of the different parts of the parcel of land and fixed at P5 per square meter as the market value of the parcel of land sought to be expropriated and held it sold in eminent domain to the plaintiff. No costs were taxed. From this judgment the defendant corporation has appealed.

Although the appellant discussed in its brief under the second assignment of error the unreasonableness of the market value fixed by the Court of the parcel of land sought to be expropriated, yet it did not waive its objection to the expropriation thereof under the rule laid down in the case of *Guido vs. Rural Progress Administration*, *supra*. In that case this Court held:

There are indeed powerful considerations, aside from the intrinsic meaning of section 4 of Article XIII of the Constitution, for interpreting Act No. 539 in a restrictive sense. Carried to extremes, this Act would be subversive of the Philippine political, and social structure. It would be in derogation of individual rights and the time-honored constitutional, guarantee that no private property shall be taken for private use without due process of law. The protection against deprivation of property without due process of law and against the taking of private property for public use without just compensation occupies the forefront positions (paragraphs 1 and 2) in the Bill of Rights (Article III). The taking of private property for private use relieves the owner of his property without due process of law; and the prohibition that "private property should not be taken for public use without just compensation" (section 1 [par. 2], Article III, of the Constitution) forbids by necessary implication the appropriation of private property for private uses (29 C. J. S., 819). It has been truly said that the assertion of the right on the part of the legislature to take the property of one citizen and transfer it to another, even for a full compensation, when the public interest is not promoted thereby, is claiming a despotic power, and one inconsistent with every just principle and fundamental maxim of a free government. (29 C. J. S., 820.)

* * * In. paving the way for the breaking up of existing large estates, trusts in perpetuity, feudalism, and their concomitant evils, the Constitution did not propose to destroy or undermine property rights, or to advocate equal distribution of wealth, or to authorize the taking of what is in excess of one's personal needs and the giving of it to another. Evincing much concern for the protection of property, the Constitution distinctly recognized the preferred position which real estate has occupied in law for ages. Property is bound up with every aspect of social life in a democracy as democracy is conceived in the Constitution. The Constitution realizes the indispensable role which property, owned in reasonable quantities and used legitimately, plays in the stimulation of economic effort and the formulation and growth of a solid social middle class that is said to be the bulwark of democracy and the backbone of every progressive and happy country.

The promotion of social justice ordained by the Constitution does not supply paramount basis for untrammelled expropriation of private land by the Rural Progress Administration or any other government instrumentality. Social justice does not champion division of property or equality of economic status; what it and the Constitution do guaranty are equality of opportunity, equality of political rights, equality before the law, equality between values given and received, and equitable sharing of the social and material goods on the basis of efforts exerted in their production. * * *. In reality, section 4 of Article XIII of the Constitution is in harmony with the Bill of Rights. Without that provision the right of eminent domain, inherent in the government, may be exercised to acquire large tracts of land as a means reasonably calculated to solve serious economic and social problems. * * *.

In a broad sense, expropriation of large estates, trusts in perpetuity, and land that embraces a whole town, or a large section of a town or city, bears direct relation to the public welfare. The size of the land expropriated, the large number of people benefited, and the extent of social and economic reform secured by the condemnation, clothes the expropriation with public interest and public use. The expropriation in such case tends to abolish economic slavery, feudalistic practices, endless conflicts between landlords and tenants, and other evils inimical to community prosperity and contentment and public peace and order. Although courts are not in agreement as to the tests to be applied in determining whether the use is public or not, some go so far in the direction of a liberal construction as to hold that public use is synonymous with public benefit, public utility, or public advantage, and to authorize the exercise of the power of eminent domain to promote such public benefit, etc., especially where the interests involved are of considerable magnitude. * * *.

The condemnation of a small property in behalf of 10, 20 or 50 persons and their families does not inure to the benefit of the public to a degree sufficient to give the use public character. The expropriation proceedings at bar have been instituted for the economic relief of a few families devoid of any consideration of public health, public peace and order, or other public advantage. What is proposed to be done is to take plaintiff's property, which for all we know she acquired by sweat and sacrifice for her and her family's security, and sell it at cost

to a few lessees who refuse to pay the stipulated rent or leave the premises.

No fixed line of demarcation between what taking is for public use and what is not can be made; each case has to be judged according to its peculiar circumstances. It suffices to say, for the purpose of this decision that the case under consideration is far wanting for those elements which make for public convenience or public use. It is patterned upon an ideology far removed from that consecrated in our system of government and embraced by the majority of the citizens of this country. If upheld, this case would open the gates to more oppressive expropriations. If this expropriation be constitutional, we see no reason why a 10-, 15-, or 25-hectare farm land might not be expropriated and subdivided, and sold to those who want to own a portion of it. To make the analogy closer, we find no reason why the Rural Progress Administration could not take by condemnation an urban lot containing an area of 1,000 or 2,000 square meters for subdivision into tiny Jots for resale to its occupants or those who want to build thereon. Pp. 1850-1854.)

The parcel of land sought to be expropriated in the case just mentioned had an area of 22,655 square meters. The rule laid down in that case was reiterated in *Commonwealth vs. Borja*,[*] G. R. No. L-1496, 29 November 1949, where the parcel of land involved contained an area of 10,565 square meters; *City of Manila vs. Arellano Law*

School,[1] 47 Off. Gaz., 4197, where the parcel of land involved comprised an area of 7,270 square meters; and *Lee Tay & Lee Chay, Inc., vs. Choco*,[2] G. R. No. L-3297, 29 December 1950, where the parcel of land comprehended an area of 900 square meters. In these cases this Court held that the parcels of land involved therein could not be expropriated for resale to the occupants, because the same do not come within the purview of the constitutional provision which authorizes "the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals." [3] a Even Republic Act No. 1162, approved on 18 June 1954, which authorizes the City of Manila to expropriate lands, applies only to landed estates or haciendas which have been and are actually being leased to tenants. This last Act is a further indication of the intent and purpose of Congress not to allow the expropriation of small parcels of land. The fact that the parcel of land is owned by a corporation the stock of which belongs mostly to Chinese citizens would not authorize the exercise of the power of eminent domain under Republic Act No. 267. If the corporation is disqualified to own land under the rule laid down in the *Krivenko* case because of alienage of the owners of its corporate stock, the exercise of the power of eminent domain is not the proper proceedings to divest it of its title. Besides, condemnation proceedings is brought upon the postulate that the defendant owns the property to be expropriated. It is an inconsistency to recognize and at the same time deny the ownership or title of the person to the property sought to be expropriated. As the municipal corporation that seeks to expropriate the parcel of land in question has no authority to condemn it, the hearing held by the commissioners to find out and determine its reasonable market value and the order of the Court fixing such value at P5 per square meter are a nullity and should be set aside.

The judgment appealed from declaring the parcel of land sold in expropriation to the plaintiff municipal corporation and the setting aside of the order of dismissal are annulled and the order of the Court dismissing the complaint is revived, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Jugo, Bautista Angelo, Concepcion, and Reyes, J. B, L., JJ., concur.

[*] 84 Phil., 847.

[*] 79 Phil., 461.

[*] 85 Phil., 51.

[1]85 Phil., 633. [2]87 Phil., 814.

[3] Section 4, Article XIII, Constitution of the Philippines.

DISSIDENTE:

PABLO M.:

El terreno que es objeto de la presente causa de expropiacion fue obtenido en compra por Choan Huat Co., Inc. en 6 de enero de 1944 en la cantidad de P55,000, papel moneda japonesa. Al tiempo de la presentacion de la demanda el terreno estaba amillarado en P4,290 y, despues de emplazada la demandada en 11 de enero de 1950, su valor amillarado' se elevo a P60,340. Esto denuestra que su valor se habia inflado para algun fin; tal vez para obtener mejor precio en caso de concederse la expropiacion.

Se contiene que no cabe la expropiacion del terreno siguiendo la doctrina adoptada en la causa de Guido. No tiene aplicacion en el caso presente, porque la extension superficial no es el unico factor determinante; otras circunstancias deben tomarse en cuenta.[1] Guido, la actual propietaria del terreno, lo habia heredado de, sus padres y probablemente estos lo habran heredado de sus tatarabuelos; es filipina y tiene derecho a poseer y adquirir bienes raices en Filipinas: no existe ley que se lo impida. En cambio, el terreno en cuestion fue adquirido en compra por Choan Huat Co., Inc. al tiempo en que ya estaba en vigor la Constitucion de la Republica Filipina bajo el regimen japonés, que prohibia la venta de terreno a extranjeros. Del capital de Choan Huat Co., Inc. P900,000 fueron suscritos y pagados por ciudadanos chinos, y solamente la cantidad de P100 fue pagada por un filipino. Esta corporacion no puede comprar bienes inmuebles en Filipinas, porque el 60% de su capital no es de la propiedad de ciudadanos filipinos. La parte de la Constitucion del Commonwealth que protege la propiedad inmueble continuaba en vigor durante el regimen japonés, porque esta considerado como ley local (vease disidencia en Arambulo contra Cua y otro,[*] G.R. No. L-7196.) Bajo dicha ley tampoco podia la corporacion adquirir el terreno.

El articulo 4, Titulo XIII, de la Constitucion del commonwealth y de la verdadera Republica de Filipinas, dispone: "El Congreso podra autorizar, mediante justa indemnizacion, la expropiacion de terrenos para ser subdivididos en pequenos lotes y traspasados a precio de costo a individuos particulares." y, de acuerdo con esta disposicion, el Congreso aprobo la Ley No. 267 que autoriza a los municipios a expropiar, mediante justa compensacion, terrenos para ser revendidos a los residentes de dichos municipios. El articulo 2 de dicha ley dice asi:

"The home sites so acquired shall be subdivided into lots not exceeding five hundred square meters each and sold on a ten-year installment plan, at the same rate of interest paid by the city or municipality for the loan used in acquiring the said home sites, preference being given to Filipino bona fide occupants and to Filipino veterans, their widows, and their children.

"No such lot shall be sold to any person who already owns a residential lot, and any sale made to such person shall be void.

"Before full payment of the home site lot has been made, title therein shall remain vested in the city or municipality concerned: Provided, That no such lot, before full payment thereof, shall be transferred, encumbered, or otherwise disposed of by the purchaser thereof without the consent of the Mayor." (Sec. 2, Rep. Act No. 267)

Es evidente el proposito de la Asamblea Constituyente y del Congreso al disponer la expropiacion de terrenos para ser revendidos en pequenos lotes de 500 metros cuadrados a sus ocupantes: quieren dar oportunidad a los desheredados de la fortuna para adquirir un solar en donde construir su hogar; no quieren ver la repeticion del triste caso de Hongkong en que, por no tener casa, los naturales tienen que vivir en "sampanes". Si a los filipinos

pobres no se les proporciona la oportunidad de poseer un pedazo de terreno en que levantar su casucha, tendran que remontarse y adoptar la vida nomada de los negritos y tinguianes, o identificarse con los Huks, o tendran que vivir en balsas sobre los esteros o en "barongbarongs" en los parques o terrenos del gobierno.

El regimen japonés, de triste recordacion, nos proporciona un ejemplo. Bajo aquel regimen, algunos, por imperiosas necesidades de momento, tuvieron que vender sus terrenos, algunos su hogar, otros sus animates de labor, y muchos sus muebles, alhajas, etc.; se desprendieron de todo cuanto tenian para librarse del hambre. Los extranjeros, que no podian ser acusados de traicion bajo el código penal entonces vigente, se aliaron con los invasores y, por su posicion ventajosa porque privaban en las alturas, acapararon todo cuanto podian para dejar en la miseria a los filipinos. Arroz, alimentos en conserva, ropa, medicinas, todo estaba concentrado en manos extranas. Los naturales, que debian tener mejor derecho en su propia tierra que los extranjeros sufrían miseria y hambre y morían como chinches. Bajo aquella situacion difícil el terreno en cuestion habia sido adquirido por la corporacion demandada. Si no se permite que expropie el terreno el gobierno municipal de Caloocan, como no se permitio a los antiguos dueños recobrar lo que vendieron en contravencion de la Constitucion,[1] entonces la deduccion forzosa es que se protege a una corporacion extranjera; se le permite por este Tribunal retener un terreno anti-constitucionalmente adquirido; se frustra el proposito humanitario de la Asamblea Constituyente y del Congreso de proporcionar un pedacito de solar a los que no lo tienen para que puedan vivir como hombres civilizados y no como los "coolies" de Hongkong, completamente abandonados a su suerte.

No debemos permitir que se repitan amargas experiencias en el pasado. Los filipinos deben tener dominio del suelo si quieren afrontar la situacion con alguna ventaja: esa es la piedra angular sobre que descansa la prohibicion de la Constitucion.

En Cuba y Puerto Rico estan tan arraigados los grandes intereses extranjeros que en un momento dado pueden estrangular economicamente a la nacion y a sus habitantes, como los grandes intereses extranjeros estrangularon sin piedad a los filipinos bajo la égida japonesa.

Después del embargo de las grandes explotaciones mineras y reventa en pequeños lotes de los grandes latifundios, los mejicanos se sienten mejor, ya están libres del yugo económico extranjero y las convulsiones sociales han desaparecido.

Los acontecimientos en Iran y Egipto tienden a restablecer a los naturales en el dominio del suelo y de los recursos naturales. Cito estos casos por su resultado y no por el procedimiento empleado. El derecho natural triunfa, y el derecho de la fuerza cede paso al nuevo ideal social.

Van a morir de hambre acaso los socios de la corporacion demandada si se concede la expropiacion del terreno? No. En cambio, un solarcito de 500 metros es cuestion de vida para los ocupantes; con esa pequeña huerta, pagadera en diez años, cada familia trabajara para construir su casita, procurara ahorrar para pagar su obligacion al gobierno, y se la acostumbrara a una vida de orden, de paz y de trabajo honrado. Con el sudor de su frente cada familia formara su hogar en un ambiente de felicidad y, al sentirse dueña de algo que no quiera perder jamás, desde ese momento aborrecera la doctrina absurda de la reparticion que pregonan los comunistas. En adelante cada hogar sera una fortaleza contra las incursiones del descontento mal contenido del comunismo y cada habitante de ese hogar sera un defensor de la democracia.

Se dice que proporcionar a los pobres un pedacito de solar significa paternalismo. Bajo las circunstancias actuales, el paternalismo estatal es indispensable. Un solo individuo, aislado, no puede luchar contra intereses bien establecidos. Si, bajo el actual desequilibrio económico, se adoptara la teoria de la libre contratacion entre patronos y obreros, estos, por ser pobres y estar sin proteccion alguna, quedarian vencidos y aniquilados. El amo puede imponer un jornal de 50 centimos al día. Obligada por el desempleo, la clase laboral tendria que aceptar un

jornal miserable en perjuicio de su salud. De ahí que al estadista previsor adopta un sistema de jornal mínimo, prescribe el número de las horas de trabajo, protege al niño y a la mujer, da asilo al anciano y desvalido, legaliza la negociación colectiva por las asociaciones obreras para que puedan reclamar mejores condiciones de trabajo, castiga la usura y ordena la venta de pequeños lotes a los pobres, pagadera a plazos fáciles. El efecto bienhechor de este paternalismo se manifiesta en el establecimiento del EDCOR: los Huks, elementos anteriormente hostiles al Estado, viven hoy en paz en su nuevo hogar, proporcionado por el gobierno; depusieron las armas, repudiaron luego sus doctrinas subversivas y hoy, regenerados en un nuevo ambiente, trabajan para sí, para sus hijos y para su país.

Pero aboliendo el paternalismo propugnado por el nuevo orden social, los menesterosos continuarían rodando por la pendiente de la miseria sin esperanza de redención. Mientras pocos se enriquecen, a la mayoría se la priva de los medios para rehabilitarse. El resultado no es difícil de prever: huelga, descontento, miseria, hambre, caos, sangre. La humanidad no puede continuar progresando con la aniquilación de las masas obreras. El trabajo debe ser lazo de armonía—en vez de arma de lucha—entre los dos factores de producción, patrono y obrero. El paternalismo del Estado en el caso presente es indispensable para producir una ciudadanía libre de horrores de la miseria, una ciudadanía que puede sobrellevar la responsabilidad de educar y mantener a sus dependientes, una ciudadanía que sepa cumplir las obligaciones y hacer respetar sus derechos.

Una masa miserable, hambrienta, no puede forjar una nación robusta: a la larga esa masa amorfa y al parecer dúctil, al saturarse de odio contra los pudientes, tendrá que estallar. Los grandes cataclismos sociales fueron el resultado de la opresión del proletariado. No debemos olvidar la lección que nos da la historia. Debemos emplear todos los recursos legales antes de que el populacho se desborde.

El valor del terreno de P55,000, en papel moneda japonesa, reducido de acuerdo con la escala Ballantine, es solamente P13,750. Indemnizando a la corporación demandada de acuerdo con la decisión del tribunal inferior, en la cantidad de P60,340, a razón de P5.00 por metro cuadrado, ella obtiene una ganancia de P46,590 o 346.10 por ciento. ¿Que clase de negocio puede dar ahora una ganancia tan fenomenal? La corporación apelante reclama en su alegato el precio de P10.00 a P30.00 por metro cuadrado. Si en Sta. Mesa, cerca de la carretera nacional para San Juan, Gregorio Araneta Co., Inc. estaba dispuesta a vender en 1947 a la Rural Progress Administration lotes a razón de P7.00 por metro cuadrado, como es que en Caloocan se puede exigir un precio de P10.00 a P30.00 el metro cuadrado? Si se adopta el precio de P30.00, entonces la corporación se llevaría una ganancia de P348,290.00 con un capital de P13,750.00, o 2,533.00 por ciento.

Es absurda e inhumana la teoría de que una corporación extranjera puede permanecer en el terreno comprado en contravención de la Constitución; que el dominio eminente del Estado es un mito contra ella y que las veinte familias que viven en el mismo no tienen derecho a la protección que les brinda la Constitución y 3a Ley No. 267. Los miembros de esas veinte familias nacieron en Filipinas porque Dios así lo dispuso; tienen derecho inalienable a la vida.

Una corporación no tiene alma; su existencia depende de la ley y de la Constitución; ni tiene entrañas: solo tiene cajas de seguridad y libros de contabilidad. No le mueve el sentido de justicia en que se fundan las doctrinas del nuevo mundo social. Las veinte familias, a cuyo favor desea el municipio de Caloocan expropiar el terreno, tienen derecho a la vida. Para poder vivir desean obtener el terreno por medio del dominio eminente del Estado. Para vivir es necesario alimentarse. "Se entiende por alimentos todo lo que es indispensable para el sustento, habitación, vestido y asistencia médica, según la posición social de la familia." (Art. 142 del Cod. Civ. Antiguo y 290, Cod. Civ. nuevo.)

El Papa Pío XII, dirigiendo la palabra a los Cardenales el 2 de junio de 1948, les decía: "En el centro de las

cuestiones del dia estan, como bien se sabe, las reformas sociales, justas y necesarias, y en especial la urgente necesidad de dar a las clases menos pudientes casa, pan,y trabajo." La "Universal Declaration of Human Rights" propugna por que "that human rights should be protected by the rule of law"; "to promote social progress and better standards of life in larger freedom;"

"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." (Art. 8)

"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social service,* * *." (Art. 25, Universal Declaration of Human Rights.)

El solarcito que reclama cada una de las veinte familias es un elemento necesario para su vida. La corporacion lo reclama para medrar, para fines de especulacion, y no para continuar viviendo. No tiene derecho a retenerlo, ante la Constitucion y la ley, menos aun, ante la conciencia universal.

Voto por la confirmacion de la decision apelada.

[1] The Rural Progress Administration contra Clemente G. Ileyes, ;G.R. No. L-4703, Octubre 8, 1953.

[*] 95 Phil., 749.

[1] Rellosa contra Gaw Chee Hun, 93 Phil., 827; Caoile contra Yu Chiao Peng, 93 Phil., 861; Bautista contra Uy Isabelo, 93 Phil, 843,

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