

**LEONIDA CRUZ, FORTUNATO CRUZ, LORENZA CRUZ, ANA CRUZ,
FELIX POLICARPIO, EUGENIO CRUZ, NARCISO CRUZ, JR., MARIA
GUTIERREZ, AND THE CHAIRMAN OF THE LAND TENURE
ADMINISTRATION, PET...***G.R. No. L-27651. October 30, 1970*

Ponente: FERNANDO, J.

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The decision of the Court of Appeals before on review contains the decisive facts as well as the crucial question involved. Thus: "It is not disputed that the lot in question (Lot No. 34-A) is a part of a bigger parcel originally known as Lot No. 1060 (now Lot No. 34, Block No. 5, Tambobong Estate) which was leased to Vicente Gonzalez by the Roman Catholic Archbishop of Manila, the former owner of the Tambobong Estate; that upon the death of Vicente Gonzales, he was succeeded by his only living heir, Diego Gonzales, who continued with the lease contract; that sometime thereafter, Diego Gonzales sold his leasehold rights over Lot No. 1060 as well as the improvements thereon to the plaintiff, Ricardo T. Franco, [respondent in this Court] who thereupon took possession of the portion thereof designated as Lot No. 34-B; and that Narciso Cruz, the [petitioner's] predecessor in interest, had been occupying the lot in question (Lot No. 34-A) since 1926 as sublessee of Diego Gonzales, the plaintiff's predecessor in interest. The question now is: "Who between Narciso Cruz [predecessor in interest of petitioners] and the plaintiff [respondent in this Court] should be given preference in the purchase of the lot in question from the Government?"[1] In the decision now under review reversing a judgment of the lower court, the answer given by the Court of Appeals failed to accord deference to the authoritative principle, the latest formulation of which was in *Gongon v. Court of Appeals*,[2] where the right of a sublessee as an occupant was accorded due recognition. Thus the appealed decision cannot stand.

1. From the undisputed facts, respondent Ricardo T. Franco would rely on the rights of Diego Gonzales, from whom he acquired the leasehold rights. On the other hand, the petitioners would base their claim as the successor of one Narciso Cruz, who was a sublessee of the aforesaid Diego Gonzales. As was pointed out in *Gongon v. Court of Appeals*, the opinion being penned by Justice Makalintal: "The first issue involves a conflict of claims between a lessee and a [sublessee] insofar as the right to purchase the property is concerned. Several decisions of this Court have been cited and discussed by the parties. Parenthetically, it may be noted that in those cases the concept of possession by a sublessee under the Civil Code, which accord-ing to the Court of Appeals in its decision under review was in effect possession by the lessee sublessor, was not considered by this Court applicable at all in construing the term 'occupant' under Commonwealth Act No. 539."[3]

Reference was then made to the first section of Commonwealth Act No. 539 authorizing the President of the Philippines to acquire private lands or any interest therein for the purpose of subdividing the same into home lots or small farms for resale to bona fide tenants or occupants.[4] It was noted in the *Gongon* opinion that in the first case interpreting the above provision, *Grande v. Santos*,[5] this Court gave the right of preference to the registered lessee, taking into consideration a number of circumstances namely, that the lot was a small one of only 144

square meters and that to subdivide the same into three portions would, owing to such extremely limited size of each land, lead to frictions, conflicts, misunderstandings and possibly disturbances of the peace.

Barely two weeks later that same year, *Marukot v. Jacinto*[6] was decided, setting forth the now-prevailing doctrine. As was noted in the opinion of the then Chief Justice Paras: "As a matter of fact, there is no dispute that appellant Jacinto was the lessee of the entire lot No. 35, who had paid rentals thereon prior to the acquisition by the Government of the Tambobong Estate; that since 1931, he has lived in his house built on his lot located in Caloocan, Rizal; that the three appellees Gabriel Marukot, Felipe Balsa and Lorenzo Baltazar have respectively occupied lots 35-B, 35-D and 35-E, the first since 1940, the second since 1946, and the third since 1944, and all the three have their own houses thereon and have been paying rentals as sublessees of appellant Jacinto." [7] After which, came this portion: "In our opinion, the trial court did not err in giving judgment in favor of the appellees. It is not necessary to decide herein whether a 'tenant' should enjoy priority over an 'occupant' who is a sublessee, because the effect of the appealed decision is to accommodate both; and this certainly cannot be said to be violative of the intents and purposes of Commonwealth Act No. 539. It is striking to note that appellant Jacinto even gets about 300 square meters, or 100 square meters in excess of the total area of the three lots awarded by the trial court to the three appellees." [8] Then came this affirmation as to who are bona fide occupants entitled to preference under the Act: "The appellees are unquestionably bona fide occupants within the meaning of Commonwealth Act No. 539 because they have their respective houses on the lots sublet to them by the tenant Amado Jacinto; and there is absolutely no showing that they were ordered to vacate either before or after the acquisition by the Government of the Tambobong Estate." [9]

The Gongon opinion, in its review of previous decisions, likewise referred to *Santiago v. Cruz*, [10] decided later in the month of that same year, where this Court, taking into consideration that the sublessees did execute a document expressly agreeing to vacate the lots anytime the tenant would so require it, recognized the right of preference of the registered tenant. That the above decision did not in any wise impair the holding of *Marukot v. Jacinto* was made clear in the opinion in *Gongon v. Court of Appeals*. Thus: "However, in the subsequent case of *Gutierrez vs. Santos, et al.* (107 Phil. 419), the ruling in the *Santiago* decision was clarified and given a restrictive application, as follows: 'Now, we say that the above order of preference should be observed if the parties affected stand on an equal footing or under equal circumstances, for only in that way can the provision of the law be implemented with equity, justice and fairness to all and in keeping with the spirit of giving land to the landless so that he may have a land of his own. But the order need not be rigidly followed when a party, say a bona fide tenant, has already in his name other lots more than what he needs for his family, for certainly to give him the preference would work injustice to the occupants.'" [11]

After such a view of the previous decisions, Justice Makalintal in the same *Gongon* decision announced the holding reached by this Court and the reason of public policy that lies behind it: "In the case at bar it is not disputed that respondent spouses have their house on another lot (lot No. 34, block No. 7) in the Tambobong Estate. Furthermore, respondent Rufino Rivera is the registered bona fide tenant of still another lot, also in Tambobong, with an area of 2,761 square meters, which is considerably bigger than the lot in question, where petitioner and his family constructed their residence and where they have been living since 1934. It cannot be said, therefore, that the parties herein stand on an equal footing or under equal circumstances. Justice and equity command that petitioner be given the preferential right to purchase in order to carry out the avowed policy of the law to give land to the landless." [12] So it should be in this case. As earlier set forth, the decision of the Court of Appeals cannot be sustained.

2. In fairness to the Court of Appeals, it cannot be truly said that no effort was made to abide by the controlling principle announced by us. As a matter of fact, its decision sought to distinguish the facts of this case from that

deemed controlling in *Gutierrez v. Santos*. Thus: "The same thing cannot be said of the herein plaintiff who only has Lot No. 34-B with an area of 338 square meters and a portion of 52 square meters of the adjacent Lot No. 1059, or a total of 390 square meters. Being a doctor by profession, he certainly needs a more spacious lot to be able to keep up, if not to the demands of his profession such as a clinic to accommodate his patients, at least to the needs of his growing family." [13]

While not entirely without basis, this Court does not deem the above reason persuasive. If it were otherwise, then it would lead to manifesting an undue regard for the needs of a medical practitioner and the standing a member thereof should possess as against the claim of the several petitioners who, as found by the Court of Appeals, have their house built on the disputed lot. The choice is not difficult, for justice and equity, to follow the language of Justice Makalintal's opinion, "command that [petitioners] be given the preferential right to purchase in order to carry out the avowed policy of the law to give land to the landless." As a matter of fact, as far back as August 11, 1951, the predecessors in interest of petitioners did acquire the disputed lot under the deed of sale executed by the then Secretary of Agriculture and Natural Resources, the deed of sale having been subsequently registered, resulting in a transfer certificate of title in favor of the aforesaid Narciso Cruz.

3. The decision of the lower court, reversed by the Court of Appeals, dismissing the complaint of now respondent Ricardo T. Franco, praying that the aforesaid deed of sale be declared null and void, that the corresponding transfer certificate of title be cancelled, or, in the alternative, for the petitioners to reconvey such property to the then Land Tenure Administration, which could execute the corresponding deed of sale in favor of the plaintiff, now respondent Ricardo T. Franco, could thus stand the test of the most exacting scrutiny. Any other decision would be to render nugatory the fundamental purpose of Commonwealth Act No. 539 and to that extent would amount to an assumption by the judiciary of the authority to declare public policy violative of the principle of separation of powers which places in the hands of Congress the sole and uncontrolled discretion as to what it shall be.

WHEREFORE, the decision of the Court of Appeals of March 27, 1967 is reversed. With costs against respondent Ricardo T. Franco.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, and Barredo, JJ., concur.

Ruiz Castro and Teehankee, JJ., in the result.

Villamor, J., took no part.

Makasiar, J., on official leave.

[1] Decision, Annex A, Brief for the Petitioners, pp. II-XII.

[2] L-24421, April 30, 1970, 32 SCRA 412.

[3] *Ibid*, p. 416.

[4] Section 1 of Commonwealth Act No. 539 (1940) reads as follows: "The President of the Philippines is authorized to acquire private lands or any interest therein, through purchase or expropriation, and to subdivide the same into home lots or small farms for resale at reasonable prices and under such conditions as he may fix to their bona fide tenants or occupants or to private individuals who will work the lands themselves and who are qualified to acquire and own lands in the Philippines."

[5] 98 Phil. 62 (1955).

[6] 98 Phil. 128.

[7] Ibid, p. 131.

[8] Ibid, pp. 131-132.

[9] Ibid, p. 132.

[10] 98 Phil. 168.

[11] L-24421, April 30, 1970, 32 SCRA 412, 417.

[12] Ibid, pp. 417-418.

[13] Decision, Annex A, Brief for the Petitioners, p. XV.

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