

THE PEOPLE OF THE PHILIPPINES, ABUNDIO R. ELLO, AS 4TH ASSISTANT PROVINCIAL FISCAL OF BOHOL, AND VICENTE DE LA SERNA, JR., AS COMPLAINANT AND PRIVATE PROSECUTOR, PETITIONERS, VS...

G.R. Nos. L-47757-61. January 28, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

The legal issue in this case is whether Presidential Decree No. 772, which penalizes squatting and similar acts, applies to agricultural lands. The decree (which took effect on August 20, 1975) provides:

"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 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 record shows that on October 25, 1977 Fiscal Abundio R. ELlo filed with the lower court separate informations against sixteen persons charging them with squatting as penalized by Presidential Decree No. 772. The information against Mario Aparici, which is similar to the other fifteen informations, reads:

"That sometime in the year 1974 continuously up to the present at barangay Magsaysay, municipality of Talibon, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with stealth and strategy, enter into, occupy and cultivate a portion of a grazing land physically occupied, possessed and claimed by Atty. Vicente de la Serna, Jr. as successor to the pasture applicant Celestina de la Serna of Pasture Lease Application No. 8919, accused's entrance into the area has been and is still against the will of the offended party; did then and there willfully, unlawfully, and feloniously squat and cultivate a portion of the said grazing land; said cultivating has rendered a nuisance to and has deprived the pasture applicant from the full use thereof for which the land applied for has been intended, that is preventing applicant's cattle from grazing the whole area, thereby causing damage and prejudice to the said applicant-possessor-occupant Atty. Vicente de la Serna, Jr." (sic)

Five of the informations, wherein Ano Dacullo, Geronimo Oroyan, Mario Aparici, Ruperto Cajes and Modesto Suello were the accused, were raffled to Judge Vicente B. Echaves, Jr. of Branch II (Criminal Cases Nos. 1824, 1828, 1832, 1833 and 1839, respectively).

Before the accused could be arraigned, Judge Echaves motu proprio issued an omnibus order dated December 9, 1977 dismissing the five informations on the grounds (1) that it was alleged that the accused entered the land through "stealth and strategy", whereas under the decree the entry should be effected "with the use of force, intimidation or threat, or taking advantage of the absence or tolerance of the landowner", and (2) that under the rule of ejusdem generis the decree does not apply to the cultivation of a grazing land.

Because of that order, the fiscal amended the informations by using in lieu of "stealth and strategy" the expression "with threat, and taking advantage of the absence of the ranch-owner and/or tolerance of the said ranchowner". The fiscal asked that the dismissal order be reconsidered and that the amended informations be admitted.

The lower court denied the motion. It insisted that the phrase "and for other purposes" in the decree does not include agricultural purposes because its preamble does not mention the Secretary of Agriculture and makes reference to the affluent class.

From the order of dismissal, the fiscal appealed to this Court under Republic Act No. 5440. The appeal is devoid of merit.

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 preamble of the decree is quoted below:

"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."

It should be stressed that Letter of Instruction No. 19 refers to illegal constructions on public and private property. It is complemented by Letter of Instruction No. 19-A which provides for the relocation of squatters in the interest of public health, safety and peace and order.

On the other hand, it should be noted that squatting on public agricultural lands, like the grazing lands involved in this case, is punished by Republic Act No. 947 which makes it unlawful for any person, corporation or association to forcibly enter or occupy public agricultural lands. That law provides:

"SECTION 1. It shall be unlawful for any person, corporation or association to enter or occupy, through force, intimidation, threat, strategy or stealth, any public agricultural land including such public lands as are granted to private individuals under the provisions of the Public Land Act or any other laws providing for the disposal of public agricultural lands in the Philippines, and are duly covered by the corresponding applications required for the purpose notwithstanding the fact that title thereto still remains in the Government; or for any person, natural or juridical, to instigate, induce or force another to commit such acts."

Violations of the law are punished by a fine of not exceeding one thousand pesos or imprisonment for not more than one year, or both such fine and imprisonment in the discretion of the court, with subsidiary imprisonment in case of insolvency. (See *People vs. Lapasaran*, 100 Phil. 40.)

The rule of *ejusdem generis* (of the same kind or species) invoked by the trial court does not apply to this case. Here, the intent of the decree is unmistakable. It is intended to apply only to urban communities, particularly to

illegal constructions. The rule of ejusdem generis is merely a tool of statutory construction which is resorted to when the legislative intent is uncertain (*Genato Commercial Corp. vs. Court of Tax Appeals*, 104 Phil. 615, 618; 28 C.J.S. 1049-50).

WHEREFORE, the trial court's order of dismissal is affirmed. No costs.

SO ORDERED.

Barredo, (Chairman), Antonio, Concepcion, Jr., and Abad Santos, JJ., concur.

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