

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE BUREAU OF
BUILDING AND REAL PROPERTY MANAGEMENT,
PLAINTIFF-APPELLANT, VS. ALEJANDRO CARDENAS,
DEFENDANT-APPELLEE.**

G.R. No. L-24842. May 31, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This case raises the question of whether an operator or engineman of the Bureau of Telecommunications assigned to a radio station housed in a government building is entitled to free quarters and light.

On August 1, 1960, the Republic of the Philippines, acting through the Bureau of Building and Real Property Management, filed a complaint for ejectment against Alejandro Cardenas before the Municipal Court of Baguio City[1] on the ground for non-payment of rentals for the living quarters he was occupying owned by the Bureau of Telecommunications.

Cardenas was an employee of the Baguio Post Office and later, the Bureau of Telecommunications. He worked therein as the Chief of the Office of Telecommunications which is housed in a government building. It appears that since 1948, Cardenas occupied cottage No. 80, a government building located a few meters away from the Office of Telecommunications paying rentals therefor. He continued to live therein even after he retired. After his death his heirs continued to occupy the said cottage.

The dispute arose sometime in 1959 when Cardenas stopped paying rentals in view of the opinion rendered by the Second Assistant City Attorney of Baguio City, advising him that he is entitled to free quarters and light under Commonwealth Act (CA) No. 246.[2] The Republic made several demands for Cardenas to pay his back rentals and later on, a demand to vacate the premises was made but to no avail.

In the complaint for ejectment, the government contends that Cardenas had been occupying four (4) rooms at the rate of twenty pesos (P20.00) monthly and that he was in arrears for P1,080.00. Cardenas contends, on the other hand, that he had been occupying only three (3) rooms and that from June, 1958 up to the time of the filing of the complaint, he was occupying only two (2) rooms. He alleges further that the claim for arrears is without basis and that his refusal to vacate is justified in that he, being an operator of the Bureau of Telecommunications assigned to a radio station occupying a government-owned building, is entitled to free quarters and light, citing CA No. 246. On September 6, 1960, both parties submitted the case for decision.

On March 29, 1961, the Municipal Court rendered a decision absolving Cardenas from any liability without any pronouncement as to costs.[3]

It was only after the government was granted relief from judgment[4] that it was able to appeal[5] from the said decision as it was already declared final[6] for its failure to claim the copy of the decision, mailed through registered mail, addressed to its counsel[7] within five (5) days from the first notice and even allegedly after two

(2) more consecutive notices.

On appeal to the then Court of First Instance (CFI) of Baguio City,[8] said court likewise dismissed the complaint[9] by holding that since the Office of Telecommunications is located in a government building and cottage No. 80 occupied by Cardenas is located a few meters away from the said government building, and is also a government building purposely intended for quarters of the Bureau of Posts (now Bureau of Telecommunications), the requirement of the law[10] is "fully satisfied and its benefits must accrue to the defendant until he shall retire or is completely separated from the service." [11]

Hence, this appeal therefrom by the government.

The provision of the law on the matter is very clear. Section 7-11 (23), Commonwealth Act No. 246, as amended, provides:

"Quarter and light for operator engineman assigned to radio stations.

"Any operator or engineman of the Bureau of Posts (now Bureau of Telecommunications) assigned to any radio station occupying a government-owned building, shall be entitled to quarters and light."

Appellee, as Chief of the Office of Telecommunications and operator therein, was entitled to occupy said cottage while he was in office as a privilege granted to an operator or engineman of said Bureau by the law. The reason for this privilege must be that the nature of his duties demands that he be available at anytime that his services may be needed.

Considering the above, the complaint for ejectment filed by the Republic against appellee was correctly dismissed by the court a quo.

However, in a resolution of December 17, 1986, the Court required the parties to inform the Court to manifest in the premises, if considering the intervening circumstances and the long period of time that the case has been pending, they are still interested in the determination of the case or the case has now become moot and academic. In a compliance[12] dated January 14, 1987, Atty. Benjamin P. Cardenas, counsel for defendant-appellee, informed the Court that the case had become moot and academic as defendant-appellee has long been retired from the service of the government and is now deceased.

On the other hand, in a manifestation of June 11, 1987,[13] the Solicitor General's Office in behalf of the petitioner Republic stated that the case can in no way be described as moot and academic inasmuch as per a 1[st] indorsement[14] of the Director of the Bureau of Building Services and Real Property Management Office of March 9, 1987, the surviving heirs of the deceased Alejandro Cardenas (defendant-appellee) still occupied the property involved in this case. The said indorsement states that defendant-appellee is survived by his children one of whom is Atty. Benjamin P. Cardenas who still occupies the property involved in the case and at the same time is counsel of defendant-appellee. A copy of the said manifestation was duly furnished to Atty. Benjamin P. Cardenas as counsel for defendant-appellee but he did not question the veracity of the same.

The issue which must now be resolved is whether the right to free quarters and light which accrued in favor of the appellee as operator of the Office of Telecommunications as provided for in CA No. 246 is extendible to and may be availed of by the appellee and his surviving heirs after he retired from the service. The answer is definitely no.

The appellee's surviving heirs, particularly Atty. Benjamin Cardenas, who is a lawyer, should have known that the right to free quarters and light of the appellee as operator of the office of Telecommunications is a right which was personal to the appellee by reason of the public office he held. Said right was terminated upon his retirement from the service. Certainly, said right is not transferrable to his surviving heirs nor are they entitled to inherit the

same.

WHEREFORE, the judgment appealed from is hereby modified by ordering the appellee, his heirs, their agents and representatives to vacate the said property and to pay rentals as may be determined by the City Court of Baguio. The records of this case are remanded to the City Court in order to determine who are the heirs and successors in interest of appellee still occupying the premises, and the amount of rentals that the appellee's surviving heirs should pay to the Government to be computed from the time the appellee retired from the service up to the time said heirs or their successors in interest actually vacate the premises.

This decision is immediately executory and no motion for extension of time to file a motion for reconsideration shall be entertained.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Docketed as Civil Case No. 2402.

[2] Page 123, Rollo.

[3] Page 34, Rollo.

[4] Order of October 31, 1961.

[5] November 24, 1961.

[6] Order of June 27, 1961.

[7] Atty. Cesar Gonzaga, whom appellant contends in be its provisional attorney and not its attorney of record.

[8] Docketed as Civil Case No. 1080.

[9] Decision of the CFI dated November 14, 1964.

[10] Commonwealth Act No. 246.

[11] Pages 190-195, Record on Appeal.

[12] Page 231, Rollo.

[13] Page 244, Rollo.

[14] Page 245, Rollo.

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