

RAYMUNDO Z. FAMILARA, PETITIONER, VS. J.M. TUASON & CO., INC., GREGORIO ARANETA, INC., CITY ENGINEER PANTALEON TABORA OF QUEZON CITY, ALL THE JUDGES PRESIDING OVER THE VARIOUS B...

G.R. No. L-31814. January 31, 1973

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ANTONIO, J.:

An original action by the barrio captain of Barrio Tatalon, in his own behalf and in representation of 1,500 "bona-fide" occupants of the Tatalon Estate in Quezon City, to enjoin the respondent Corporations, J.M. Tuason & Co. and Gregorio Araneta, Inc., "from bulldozing and fencing any portion" of the Tatalon Estate "and/or from selling" any of the lots therein, "and/or from filing ejectment cases" against the "bona-fide" occupants of the estate, the respondent City Engineer of Quezon City from issuing "building and fencing permits" to purchasers of lots within the Tatalon Estate, and the respondent City Sheriff of the same city from "implementing writs of execution" or "orders of demolition" issued against the occupants of the estate. The petitioner also seeks for the issuance of an order to compel the presiding judges of the Courts of First Instance and City Courts of Quezon City to dismiss the cases of accion publiciana or for ejectment filed by said Corporations against the aforesaid occupants. This action is predicated on the averment that on November 10, 1960, the Land Tenure Administration was directed by the Executive Secretary to initiate proceedings for the expropriation of the Tatalon Estate.

Reliance is thus placed by petitioner upon the provisions of Section 4 of Republic Act No. 2616. There is no averment however in the petition that any expropriation proceeding has in fact been actually instituted before the courts. In view of recent developments, since the submission of this case, the parties were required on November 24, 1972, to comment whether or not in their view, the case has been rendered moot. In the comment of respondent Gregorio Araneta, Inc. said party stated that, while a "preliminary conference" has been held between the People's Homesite & Housing Corporation and the respondent, on the unsold lots within the Tatalon Estate, which may still be acquired by the government for distribution to the bona-fide occupants thereof pursuant to Republic Act No. 2616, said party "cannot determine the outcome of the announced desire of the Government to acquire said property pursuant to said law."

In the absence of any proceeding for expropriation instituted before the courts, petitioner has clearly no cause of action. It is true that Republic Act No. 2616, insofar as it expropriated singularly a particular private property, had survived the challenge of being discriminatory, and was declared free from constitutional infirmity.[1] Nevertheless, this Court has also ruled that Section 4[2] thereof which places a restraint upon the exercise and enjoyment by the owner of certain rights over its property, is justifiable only if the government takes possession of the land and is in a position to make a coetaneous payment of just compensation to its owner.[3] There could not be any other way by which the validity of the provision may be sustained. Definitely, to hold that the mere declaration of an intention to expropriate, without instituting the corresponding proceeding therefor before the courts, with assurance of just compensation, would already preclude the exercise by the owner of his rights of ownership over the land, or bar the enforcement of any final ejectment order that the owner may have obtained

against any intruder into the land, is to sanction an act which is indeed confiscatory and therefore offensive to the Constitution. For it must be realized that in a condemnation case, it is from the condemnor's taking possession of the property that the owner is deprived of the benefits of ownership,[4] such as possession, management and disposition thereof. Before that time, the proprietary right of the owner over his property must be recognized.

Actually, there should no longer be any doubt, on this matter. In a series of cases previously passed upon by this Court, involving the same private respondents and property, and occasioned by the congressional approval of the same Republic Act No. 2616, it was definitively ruled that until the proceedings for condemnation have been fully instituted and possession of the property is taken over by the condemnor, the enforcement of final decrees of eviction may not be lawfully suspended.[5] Thus:

"* * * the mere filing of the condemnation proceedings for the benefit of tenants can not, by itself alone, lawfully suspend the condemnee's dominical rights, whether of possession, enjoyment or disposition. And this is especially the case where final and executory judgments of ejectment have been obtained against the occupants of the property." (Tuason & Co., Inc. vs. Land Tenure Administration, L-18128, Dec. 26, 1961.)

As heretofore adverted to nothing had been presented in the case at bar, to show that an action for expropriation of the lots allegedly occupied by the 1,500 persons named in Annex "A" of the petition has actually been instituted and is being pursued by the government, nor is there proof that the supposed appropriated amount of P10,000,000.00, for the purchase of the Tatalon Estate by the government, has been duly certified as available for that purpose. Under such circumstances no valid ground has really been established to restrict respondents' exercise of their dominical rights over their property.

In view of the conclusion thus arrived at, We find it unnecessary to pass upon the other issues raised by the respondents.

WHEREFORE, the petition is hereby dismissed, without costs.

Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.

Concepcion, C.J., did not take part.

[1] J.M.Tuason & Co. Inc. vs. Land Temire Administiation, L-21064, Feb. 18, 1970, 31 SCRA 413.

[2] "SEC. 4. After the expropriation proceedings mentioned in Section Two of this Act shall have been initiated and during the pendency of the same, no Cont. [2]ejectment proceedings shall be instituted or prosecuted against the present occupant of any lot in said Tatalon Estate, and no ejectment proceedings already commenced shall be continued, and such lot or any portion thereof shall not be sold by the owners of said estate to any person other than the present occupant without the consent of the latter given in a public instrument."

[3] 4 Cuatico vs. Court of Appeals, L-20141-42, Oct. 31, 1962, 6 SCRA 595, reiterated in J.M.Tuason & Co., Inc. vs. Land Tenure Administration, L-21064, resolution of June 30, 1970, 33 SCRA 882.

[4] Urtula vs. Republic, L-22061, Jan. 31, 1968, 22 SCRA 477.

[5] J.M. Tuason & Co., Inc. vs. Jaramillo, L-1 8932-34, and companion cases, Sept. 30, 1963, 9 SCRA 189; J.M. Tuason & Co., Inc. vs. Cabildo, L-17168, Oct. 31, 1962, 6 SCRA 477.

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