

**ZOSIMA SAGUN, CLARA SOL, JOSE IBARRA, CARIDAD A. CAOILI,
MARGARITA B. ECHALUCES, AGUSTIN BARRIENTOS, PURIFICACION
GOMEZ, ADRIANO DE LA CRUZ, AZUCENA CABAL, RESTITUTO
ESPEDIDO AN...**

G.R. No. L-44738. June 22, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This is an appeal from the decision of the Court of First Instance of Rizal, Branch XVI, Quezon City of May 23, 1974[1] certified to this Court by the Court of Appeals in its resolution of September 14, 1976 on purely questions of law.[2] The primordial issue is whether the defendant People's Homesite and Housing Corporation (PHHC), now the National Housing Authority (NHA),[3] can be compelled by mandamus to sell certain lots for a certain price to its registered tenants or their successors-in-interest.

Subject of the controversy are several lots and dwelling units thereon located in Block 330, LCH Project 3, Quezon City of the PHHC. Plaintiffs-appellants as registered tenants and/or successors-in-interest of these lots filed a complaint for mandamus with preliminary injunction[4] against the PHHC on January 18, 1972 seeking the sale of these lots in their favor at a selling price of not more than P10.00 per square meter. They alleged, inter alia, that under Republic Act (R. A.) No. 3802, defendant corporation is directed to sell at cost all dwelling units in the housing project of defendant corporation to them as the registered tenants and/or successors-in-interest; that they filed their petitions to purchase said lots which are still pending with the defendant except that of Sagun and Ibarra who were advised to pay for their respective lots at P50.00 per square meter; that the selling price of P50.00 per square meter is excessive and contrary to R.A 3802 considering that a certain lot in the same area has been sold to one Roosevelt Ildefonso for P10.00 per square meter as well as store spaces within the project were sold for less than P10.00 per square meter; that plaintiffs have exhausted all reasonable means to have the P50.00 selling price reconsidered by the PHHC through representations made with the Office of the Economic Coordinator, the department which exercises control and supervision over the PHHC, as endorsed by the Office of the President; that defendant has given plaintiffs Sagun and Ibarra the option to purchase the lots for P50.00 per square meter until December 31, 1971, otherwise defendant will execute a new lease contract over the said lots with increased rentals.

In its answer of February 29, 1972,[5] PHHC denied the material allegations of the complaint and raised, among others, the affirmative defense of failure to exhaust administrative remedies by plaintiffs.

The parties submitted their partial stipulation of facts on June 19, 1972[6] and their supplemental stipulation of facts on December 19, 1972.[7]

Meanwhile, the trial court in its order of October 3, 1972 appointed Atty. Diana L. Dungca, Special Deputy Clerk of Court as commissioner to receive the evidence of the parties.[8] After submission of the report by the hearing

commissioner,[9] the court rendered its decision on May 23, 1974 dismissing the complaint.[10]

The motion for reconsideration of plaintiffs[11] was likewise denied.[12] Hence, plaintiffs appealed the decision of the court a quo to the Court of Appeals assigning the following errors:

"I

THE LOWER COURT ERRED IN NOT FINDING THAT THE SELLING PRICE OF P50.00 PER/SQUARE METER OF THE LOTS IN QUESTION IS DISCRIMINATORY AND VIOLATED RA 3802, AMOUNTING TO GRAVE ABUSE OF DISCRETION.

"II

THE LOWER COURT ERRED IN FINDING THAT PLAINTIFFS-APPELLANTS FAILED TO EXHAUST ADMINISTRATIVE REMEDIES BEFORE RESORT TO THE COURT WAS MADE.

"III

THE LOWER COURT ERRED IN FINDING AND/OR JUSTIFYING EXHIBITS NO. "28" AND NO. "28-A" REAL ESTATE VALUATION IN QUESTION CITY AS BASIS IN DETERMINING THE "AT COST" SELLING PRICE OF THE LOTS IN QUESTION INSTEAD OF RESOLUTION NO. 759 AND MEMORANDUM DATED APRIL 2, 1964, AS CONCURRED IN BY ACTING ECONOMIC COORDINATOR UNDER 1ST INDORSEMENT DATED APRIL 27, 1964.

"IV

THE LOWER COURT ERRED IN DISMISSING PLAINTIFFS-APPELLANTS' PETITION FOR MANDAMUS TO THE EXCLUSION OF THE LATTERS' USE AND ENJOYMENT OF A RIGHT THEY ARE ENTITLED UNDER RA 3802."

Finding the appeal to involve purely questions of law as to the proper interpretation of the "at cost" selling price of subject dwelling units as required by R.A. 3802, the Court of Appeals certified the case to this Court.[13]

Plaintiffs-appellants premised their action on Section 1 of Republic Act No. 3802, which provides:

"Section 1. Subject to the provisions hereinafter set forth, all dwelling units of the People's Homesite and Housing Corporation, including those constructed with foreign aid as well as the lots on which they are constructed, are directed to be sold, at cost free from all liens and encumbrances whatsoever except those hereinafter set forth to the present registered tenants or their successors-in-interest."

It is the contention of the plaintiffs-appellants that defendant-appellee PHHC acted in grave abuse of discretion when it pegged the selling price of the lots in question at P50.00 per square meter which they claim runs counter to the directive of R.A. 3802 that the lots be sold "at cost." As basis for this allegation, they point out several lots located within the same LCH Project 3 which were sold at a price not exceeding P10.00 per square meter.

Defendant-PHHC, on the other hand, counters that R.A. No. 3802 does not cover the units being leased by the plaintiffs because they are not "dwelling units" but store spaces as specified in their contracts of lease.[14] As regards the sale of store units, it argues that this is a matter of administrative discretion that rests solely upon the PHHC so that in the event it decides to sell, the price of said units may be based on the fair market value at the time of the sale.

We agree with the defendant-appellee PHHC.

The aforequoted provision relied upon by plaintiffs explicitly provides for the sale of lots and the "dwelling units" thereon. Clearly, the law was intended to assist the lessees of dwelling or residential units. This is in line with the purpose for the creation of the PHHC[15] which is to provide decent and low-cost housing for those who may be

found unable to provide themselves therewith.

There is no doubt that the units leased by plaintiffs Sagun, Tomaneng, Ibarra, Caoili, Gomez, De la Cruz and Espedido are intended for store or shop purposes as specifically provided for by the lease agreements. The fact that plaintiffs have converted their store units to be their living quarters is of no consequence since the requisite approval of the Office of the Economic Coordinator was not obtained. They were intended for store purposes and as such, they have been paying rentals for store spaces ranging from P35.00 to P70.00 which are much higher than the P16.00 to P20.00 for residential ones. The PHHC in excluding these units has interpreted the term "dwelling units" to include only those which are intended for residential purposes in accordance with the legislative intent and not commercial or store units considering the transitory nature of operation of business establishments.

We see no reason to disturb the interpretation of R.A. 3802 given by the PHHC. While executive construction is not necessarily binding upon courts, it is entitled to great weight and consideration.[16] The construction placed by the PHHC as the administrative agency charged with implementing and enforcing the provisions of the statute should be given controlling weight.[17] In the absence of error or abuse of power or lack of jurisdiction or grave abuse of discretion clearly conflicting with either the letter or the spirit of a legislative enactment creating or charging a governmental agency, the action of the agency would not be disturbed by the judicial department.[18] The action of the PHHC neither conflicts with the letter of the law or does it demonstrate any abuse of discretion to warrant its reversal.

Even the claim of plaintiffs that the price of P50.00 per square meter is excessive and discriminatory because prior sales of store spaces in the same LCH project were closed at a price of P10.00 per square meter or even less per Resolution No. 759 passed by the PHHC Board[19] cannot be sustained. As respondent PHHC points out, plaintiffs failed to consider the number of years that have passed from the sale of those spaces in 1964 to 1967 to the time they petitioned to purchase the units they were renting in 1971. And since these units are not covered by RA 3802, it is within the administrative discretion of the PHHC to use as basis for the selling price the fair market value of the land as per the appraisal required by the guidelines set by the Office of the Economic Coordinator.[20] The selling price of P50.00 per square meter is not excessive nor unreasonable considering that the market values of the lots in the area are P130.00 per square meter for a corner lot and P120.00 for a middle lot.[21]

Since there is no showing of a clear, manifest and grave abuse of discretion amounting to want of jurisdiction, the findings of the PHHC on matters falling within its competence will not be disturbed by the courts[22]

Even assuming that the store units should be sold "at cost" under R.A. 3802, this should not only include the cost of acquisition of the property by the Government but the costs of maintenance and administration as well which the PHHC had incurred through the years. As this Court had occasion to explain the term "at cost" in an expropriation case involving the interpretation of Sec. 4, Article XIII of the 1935 Constitution,[23] the cost is not only the purchase price which the government pays to owners of landed estates but also the cost of administration and of its eventual sale to tenants and occupants, not more but not less.[24]

With reference to plaintiffs Sol Vda. de Echaluces, Batalla, Barrientos, and Cabal, an examination of their lease agreements with the PHHC indicated that they are renting dwelling houses for use as living quarters or private residence.[25] Hence, these units should be covered by R.A. 3802 and must therefore, be sold "at cost" to the registered tenants and/or successors-in-interest. The foregoing construction of the term "at cost" may likewise apply with respect to dwelling units. Thus, the final determination of the selling price of the lots in question at P50.00 per square meter,[26] which this Court is not inclined to disturb as this is a matter falling within the competence of the PHHC, should be respected and such action of the PHHC is not tainted with grave abuse of

discretion.

Anent the issue of non-exhaustion of administrative remedies by the plaintiffs, they contend that this principle does not apply because the question involved in the case is purely legal.

Defendant-appellee PHHC concedes that the doctrine of exhaustion of administrative remedies is not an absolute rule; however, it insists that the exception invoked by plaintiffs-appellants does not apply and their failure to appeal the decision of the PHHC to the Office of the Economic Coordinator which exercises administrative control and supervision over the PHHC nor to the Office of the President is fatal to their cause.

The crux of the controversy is the interpretation of Section 1, R.A. 3802 as to its coverage and the determination of the "at cost" selling price. There is no question that the issue involved is a purely legal one; hence, an administrative review is not a condition precedent to judicial relief.[27]

Moreover, plaintiffs-appellants did seek the assistance of the Office of the President[28] which in turn referred the same to the defendant-appellee PHHC which stood pat on its decision so that plaintiffs had no other recourse but to go to court.[29]

Nevertheless, even if judicial action is allowable under the circumstances of this case, mandamus will not lie. It is settled that for mandamus to lie, the plaintiffs' legal rights must be well-defined, clear and certain.[30] There is here no showing of a clear and certain right of the plaintiffs who are leasing store spaces to compel defendant PHHC to sell to them the said store units, more so for a price much lower than the P50.00 per square meter selling price fixed by the PHHC.

Neither does the defendant PHHC have the ministerial duty to execute a contract of sale in favor of plaintiffs for which the remedy of mandamus is available.[31] In the present action, plaintiffs want to compel the defendant PHHC to sell to them the subject lots with the store units therein at a price not exceeding P10.00 per square meter. There is no such obligation of the PHHC under R.A. 3802, aside from the fact that the determination of the selling price requires the exercise of discretion on the part of the PHHC.

As regards the plaintiffs-appellants renting dwelling units, it is true that under R.A. 3802 the PHHC is directed to sell "at cost" the lots and dwelling units thereon. However, as the trial court observed, the PHHC may have the ministerial duty to sell the lots to plaintiffs as its registered tenants but it cannot be compelled by mandamus to sell the subject lots at a price of P10.00 per square meter or even less for as pointed out earlier, the fixing of the "at cost" selling price requires the exercise of discretion by the PHHC.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the decision of the trial court is hereby AFFIRMED in toto.

SO ORDERED.

Narvasa (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Penned by Judge Sergio A.F. Apostol.

[2] Penned by Associate Justice Andres R'cyas, concurred in by Associate Justices Godofredo P. Ramos and B.S. de la Fuente.

[3] PHHC was dissolved by P.D. No. 757 with its powers and functions transferred to the National Housing Authority.

- [4] Page 1, Original Record.
- [5] Page 21, Supra.
- [6] Page 32, Supra.
- [7] Page 53, Supra.
- [8] Page 42, Supra.
- [9] Page 192, Supra.
- [10] Page 212, Supra.
- [11] Page 234, Supra.
- [12] Page 248, Supra.
- [13] Page 60, Rollo.
- [14] Exhibits 3, 7, 9, 10, 14, 15 and 20.
- [15] Executive Order No. 399, January 5, 1951.
- [16] Ramos v. Court of Industrial Relations, 21 SCRA 1282, citing Gabio v. Ganzon, 1 SCRA 713, Gesolgon v. Lacson, 2 SCRA 553.
- [17] Asturias Sugar Central, Inc. v. Commissioner of Customs, 29 SCRA 617.
- [18] Guardiano v. Encarnacion, 29 SCRA 326; Pindangan Agricultural Co., Inc. v. Dans, 4 SCRA 1035.
- [19] Exhibit "F".
- [20] Exhibit 23-C.
- [21] Exhibit 2S-A.
- [22] Rico v. Court of Appeals, 36 SCRA 483.
- [23] Sec. 4, Art. XIII - "The Congress may authorize, upon payment of just compensation, the expropriation of land to be subdivided into small lots and conveyed at cost to individuals." (emphasis ours.).
- [24] Javillonar v. Land Tenure Administration, 104 Phil. 323.
- [25] Exhibits 6, 11, 12, 13, 19.
- [26] Exhibits 8, 26-A to 26-J.
- [27] Tapales v. President, et al. of the U.P., 7 SCRA 553; Mitra v. Subido, 21 SCRA 127; Pascual v. Provincial Board of Nueva Ecija, 106 Phil. 466; Bagatsing v. Ramirez, 74 SCRA 306; Malabanan v. Ramento, 129 SCRA 359.
- [28] Exhibit N-3.
- [29] Azuelo v. Arnaldo, et al., 108 Phil. 293.
- [30] Villamor v. Lacson, 12 SCRA 418; Isada v. Bocar, 62 SCRA 37; Province of Pangasinan v. Reparations Commission, 80 SCRA 376; Marcelo v. Tantuico, Jr., 142 SCRA 439.

[31] Sec. 2, Rule 65; *Astudillo v. The Board of Directors of People's Homesite and Housing Corporation*, 73 SCRA 15; *Aquino v. Mariano*, 129 SCRA 532.

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