

HEIRS OF ANSELMA TUGADI, ET AL. AND MARGARITA PAJIMOLA, ET AL., PLAINTIFFS-APPELLEES, VS. MANILA RAILROAD COMPANY (PNR), ET AL., DEFENDANTS-APPELLANTS.

G.R. Nos. L-26478-79. July 31, 1975

Ponente: MARTIN, J.

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MARTIN, J.:

Appeal on a question of law from the decision of the Court of First Instance of La Union in (1) Civil Case No. 1589, entitled "Heirs of Anselma Tugadi, et al. versus Manila Railroad Company (PNR), et al." and in (2) Civil Case No. 1884, entitled "Margarita Pajimola, et al. versus Manila Railroad Company (PNR), et al."

On October 17, 1960 plaintiffs in Civil Case No. 1589 filed a complaint against Manila Railroad Company, now Philippine National Railways, for the recovery of ownership and possession of their respective lands described in the complaint or the just compensation thereof including damages and attorney's fees, which lands are being used by defendant MRR for its railroad track.

On October 23, 1962, the Republic of the Philippines was allowed to intervene in this case upon motion of the Solicitor General who claims that the properties which plaintiffs seek to recover formerly belonged to the Japanese Imperial Government; that under the Philippine Property Act of 1946, the United States Government, through its agency, seized or vested such properties under Vesting Order No. P-386, dated September 26, 1947; that by virtue of a Transfer Agreement executed on June 15, 1957, the United States transferred to the Republic of the Philippines the above mentioned properties; that the Board of

Liquidators, Office of the President, administered the above properties for the Republic of the Philippines; that although the above railroad line was turned over to the Manila Railroad Company for its operation, it is still owned by the Republic of the Philippines.

On August 27, 1963, the parties assisted by their respective counsels submitted a stipulation of facts which was duly admitted by the lower court, to wit:

"STIPULATION OF FACTS

COME NOW the plaintiffs and the defendants in the above-entitled case through their respective Attorneys, and to this Honorable Court respectfully submit the following stipulation of facts for the purpose of determining whether the plaintiffs are still entitled to claim payment from the defendants of the properties which are the subject matter of the complaint:

1. That the properties in question were taken over by the Japanese Army during the war in 1944 and constructed a railroad track over it;
2. That in 1954 the same properties were taken over by the defendant, Manila Railroad Company, which operated the same railroad line left by the Japanese;

3. That between the intervening period of 1945, when the Japanese were driven, and in 1954 when the MRR took over, the plaintiffs repossessed and cultivated portions of these parcels of land not actually covered by the railroad track;

4. That the properties were taken over by the Philippine Alien Property Custodian as Administrator on September 26, 1947, by virtue of Vesting Order No. P-386, a copy of which is hereto attached as Annex "A";

5. That on June 15, 1957, the properties in question were transferred by the government of the United States to the government of the Republic of the Philippines by virtue of a transfer agreement which is hereto attached as Annex "B";

6. That the properties in question form part and are within the plaintiffs' claim which were vested and transferred by the government of the United States to the government of the Philippines;

7. That the properties claimed by the plaintiffs are within the area covered by the Vesting Order and Transfer Agreement and the plaintiffs failed to file their corresponding notice of claims with the Philippine Alien Property administration for the return of their properties as required by the said Vesting Order;

8. That up to the present the defendant Manila Railroad Company is in actual possession and control of the area or properties in question being utilized by it as its railroad track and right of way;

9. The defendants consisting of the Manila Railroad Company and the Republic of the Philippines, as intervenor, admit:

a. That the properties were owned by the plaintiffs, long before the war, being in possession openly, adversely, and in the concept of owners up to 1944 when they were taken by the Japanese Army and constructed a railroad line;

b. That the plaintiffs continue to claim ownership of the same properties up to the present and have been paying the taxes as previously stated; that they possessed and cultivated that portion of the said lands not actually covered by the railroad track;

c. That the defendants have not paid the plaintiffs by reason of the Vesting Order and Transfer Agreement.

10. That defendant Manila Railroad Company to the exclusion of defendant Republic of the Philippines, agrees that in the event that the Court finally decides that the plaintiffs are entitled to payments then the reasonable market value will be determined by the Court in a proper proceeding as justice may require without prejudice to other claimants who may contest the ownership of the said properties in which case defendant MRR who alone, would pay the rightful owners, will withhold payment until the new claimants interplead;

WHEREFORE, the parties hereby submit the foregoing stipulation of facts and pray the Court to render judgment on the issue of whether the plaintiffs are still entitled to claim payments of the properties covered by the abovementioned Vesting Order and Transfer Agreement.

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The foregoing stipulation of facts, however, was subject to the right of the plaintiffs to submit evidence on the following issues:

- Whether the properties subject of litigation were taken over by the Japanese Imperial Army during the war in 1944 by means of force and intimidation, without just compensation, and constructed a railroad track therein;
- That between the intervening period of 1945 when the Japanese were driven away and 1954 when MRR took over, the plaintiffs possessed and cultivated all portions of the parcels of land in question.

On the same date, August 27, 1963, another set of plaintiffs filed Civil Case No. 1884 against the defendant Manila Railroad Company raising practically the same issues in Civil Case No. 1689. During the hearing of Civil Case No. 1884 the parties agreed to submit the case for decision on the basis of the stipulation of facts submitted in Civil Case No. 1589.

For a factual backdrop, the plaintiffs in both cases are the owners in fee simple of the parcels of land described in their respective complaints even before the outbreak of World War II. When the Japanese came and occupied the Philippines, the Japanese Imperial Army took the parcels of land in question and used them for the construction of a railroad line from San Fernando to Bacnotan, in the province of La Union. When the Philippines was liberated in 1945 from the Japanese Military Occupation, the aforesaid parcels of land were abandoned and the plaintiffs immediately returned to their respective areas and repossessed them.

On September 26, 1947, the Philippine Alien Property Administrator vested in himself pursuant to Vesting Order No. P-386, the aforesaid properties after having found them to be owned or controlled or held by an enemy country. Said properties were to be held, used, administered, liquidated, sold or otherwise dealt with by the Philippine Alien Property Administrator for the interest and benefit of the United States in accordance with the Philippine Property Act of 1946. Obviously unaware of the implications of Vesting Order No. P-3 86 and the Philippine Property Act of 1946, plaintiffs failed to file their notice of claims for the return of their respective properties within the period provided for under the aforesaid Vesting Order. Meanwhile in the middle part of 1954, defendant Manila Railroad Company entered the said parcels of land and re-established its railroad track thereon.

Hence, the present suits to recover the ownership and possession of their respective parcels of land by the plaintiffs.

In answer, defendant Manila Railroad Company claims that plaintiffs have lost their right of ownership over the lands in question as the same were validly acquired by the Japanese Imperial Army upon payment of just compensation and as special defenses, alleges that the lands in question being enemy property were confiscated by the United States Army when the Japanese Imperial Army was defeated and pursuant to the Treaty Agreement between the United States of America and the Republic of the Philippines in 1946, the same were transferred to the Republic of the Philippines through the Board of Liquidators which later turned over to the Manila Railroad Company for railroad operations.

On April 25, 1905, counsel for the defendant Manila Railroad Company made of record in open court that he was willing to submit the cases for decision strictly on the basis of the stipulation of facts submitted by the parties.

Accordingly, on January 12, 1966, the lower court rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, in view of the foregoing, the Court believes and so holds that the plaintiffs are entitled to a just compensation of their lands taken by the defendant Manila Railroad Company. If within sixty days after this decision has become final and that the plaintiffs shall not have been paid for their lands subject of these two cases, the Court, upon proper motion, may appoint a commissioner, together with the counsel for plaintiffs and defendant to determine the exact area of the land claimed by each plaintiff and the reasonable value per square meter subject to the approval of the Court. The Court remembers the statement of the counsel for the Philippine National Railways that should the legal questions raised here be decided by the Supreme Court adverse to the defendant, the latter shall be willing to pay immediately the reasonable compensation that the plaintiffs are entitled to.

The Court believes in connection with payment to the plaintiffs that they are entitled to reasonable amount for attorney's fees considering the duration of these two cases, the number of plaintiffs involved and the long waiting that these farmers had to endure to get the value of their lands taken from them. Such attorney's fees shall be P1,500.00.

SO ORDERED.

In his appeal defendant Manila Railroad Company press that the trial court erred:

"IN HOLDING THAT THE PLAINTIFFS ARE STILL ENTITLED TO PAYMENT OF JUST COMPENSATION OF THE LANDS IN QUESTION AS WELL AS ATTORNEY'S FEES IN THE SUM OF P1,500.00.

"IN DECIDING THE CASES NOT STRICTLY ON THE STIPULATION OF FACTS SUBMITTED BY THE PARTIES."

The main thrust of plaintiffs' claim is that the Japanese Imperial Army could not have validly acquired ownership over the properties in question because it took them from the plaintiffs without any compensation. They contend that their respective portions of the land taken by the Japanese Imperial Army were not enemy properties and therefore could not be covered by Vesting Order No. P-386 of the Philippine Alien Property Administrator. Defendant Manila Railroad Company, however, submits that the lands in question were enemy properties and therefore pursuant to the Trading with the Enemy Act and the pertinent Executive Orders, the Philippine Alien Property-Administrator had the power to vest in himself the aforesaid properties. Defendant Manila Railroad Company relied heavily on the case of *Herbert Brownell, Jr. vs. Macario Bautista*, G.R. L-6801, Sept. 28, 1954[1] wherein this Court held:

". . . If an action is taken by the Administrator under Section 3 of the Philippine Property Act of 1946, our courts can only pass upon the identity of the property and the question of possession but cannot look into the validity of the vesting order, nor entertain any adverse claim which would require the determination of ownership of the property (*Silesian American Corporation vs. Markham*, 156 Fed. Sup. 793; *In re Miller*, 281 Fed. 764, 773-774; *Miller vs. Kaliwerke Aschersleben Aktien-Gesselschaft*, 283 Fed. 746, 752; *Kahn vs. Garvan*, 263 Fed. 909, 916; *Garvan vs. Certain Shares of International A. Corp.* 276 Fed 206 207; *In re Sutherland*, 21 Fed. 2d 667, 669). Of course it may cover property which does not belong to an alien enemy. If this case arises, then the remedy of the interested party is to give notice of his claim to the Alien Property Custodian, and if no action is taken thereon, to bring an action in the proper court under Section 9 (a) of the Trading with the Enemy Act, where the validity of the vesting order can be tested and the question of title can be adjudicated." [2]

Defendant Manila Railroad Company contends that the plaintiffs can no longer recover their respective property because they failed to give notice of their claim to the Alien Property Custodian within two (2) years from the seizure by or vesting in the Alien Property Custodian as the case may be of the property or interest in respect of which the claim is made or within two (2) years from the date of enactment of the section, whichever is later. Neither have they filed a suit after the expiration of two (2) years from the date of seizure by or vesting in the Alien Property Custodian as the case may be, of the property or interest in respect of which relief is sought or from the date of enactment of this section whichever is later x x x. [3] The contention of defendant Manila Railroad Company can be sustained if the properties in question can be treated as "enemy properties" within the contemplation of the Trading with the Enemy Act of 1917.

There can be no dispute that the Japanese during World War II fall under the term "enemy"⁴ of United States because they constitute a body of individuals with which the United States was at war. If the Japanese were "enemies" of the United States what would be the nature of the properties seized and occupied by the Japanese Imperial Army during the period that the Philippines was under the Japanese Military Occupation? Can said properties be considered "enemy properties" subject to the provisions of the Trading with the Enemy Act of 1917.

In *Republic of the Philippines vs. Lara, et al.*, [5] this Court had the occasion to thresh out the question regarding the status of properties occupied and used by the Japanese Imperial Army during its occupation of the Philippines. The case relates to an expropriation proceedings filed by the Republic of the Philippines over a large tract of land (187 hectares) located at Lipa City, on which the Armed Forces of the Philippines constructed and now operates and maintains the Fernando Air Base. During the later part of the Japanese Military Occupation (1943), the land was occupied by the enemy forces and converted into a campsite and airfield. The houses along the National Highway and the provincial roads were destroyed, and the fruit trees, orchards, and sugar crops cut down and in their place, the Japanese Imperial Army built concrete airstrips, concrete taxi ways, dug-outs, canals, concrete ramps, ditches, gravel roads and air raid shelters. Immediately upon the liberation of the Philippines from Japanese hands, the United States Army took possession of the airfield. Then on July 4, 1946, the United States Government turned over the airfield to the Armed Forces of the Philippines. The latter then took steps to purchase the area for the purpose of constructing thereon a permanent base. However, a great majority of the land owners rejected the price offered. So the Government sought to expropriate the land. In resolving one of the issues raised therein this Court said:

"On the question of whether the owners of the parcels upon which the Japanese Army had built a concrete airstrip, runway, and taxi-way should be compensated for the value of these improvements, we agree with the Court below that these improvements should be excluded as an element of depreciation or damage, on the ground that "the Republic of the Philippines as victor in the last war should be considered the legitimate successor to the properties owned by the Japanese in the Philippines" (Record on Appeal, p. 783).

Defendants-appellants insist that a belligerent occupant could not take private property without compensation; that the Japanese forces were possessors of their lands in bad faith; and that therefore, the improvements constructed thereon by them should, under our civil law, belong to the owners of the lands to which they are attached. This argument is untenable. In the first place, the rules of Civil Code concerning industrial accession were not designated to regulate relations between private persons and a sovereign belligerent, nor intended to apply to constructions made exclusively for prosecuting a war, when military necessity is temporarily paramount. In the second place, while Art. 46 of the Hague Regulations provide that "private property may not be confiscated", confiscation differs from the temporary use by the enemy occupant of private land and buildings for all kinds of purposes demanded by the necessities of war ((II Oppenheim, Int. Law, Lauterpacht Edition, See. 140); thus, the U.S. War Department Rules of Land Warfare of 1940 provided that —

"the rule requiring respect for private property is not violated through damage resulting from operations, movement or combats of the army, that is, real estate may be utilized for marches, camp cites, construction of trenches, etc. Buildings may be used for shelter for troops, the sick and wounded, for animals, for reconnaissance, cover defenses, etc. Fences, woods, crops, buildings, etc., may be demolished, cut down, and removed to clear a field of fire, to construct bridges, to furnish fuel if imperatively needed for the army" (Quoted in Hyde, Int. Law, Vol. II, p. 1894.)

Consequently, the Japanese occupant is not regarded as a possessor in bad faith of the lands taken from the defendants-appellants and converted into an airfield and campsite; its use thereof was merely temporary, demanded by war necessities and exigencies. But while defendants-appellants remained the owners of their respective lands, the Republic of the Philippines succeeded to the ownership or possession of the constructions made thereon by the enemy occupant for war purposes, unless the treaty of peace should otherwise, provides; and it is under no obligation to pay indemnity for such constructions and improvements in these expropriation proceedings" (*italics supplied.*)

In *Placido Noceda vs. Marcos Escobar*[6] the plaintiff-appellant owned a motor boat cutter which he used to transport passengers and cargo between Albay and Catanduanes. In February 1942, the Japanese Armed Forces in the area seized said vessel and used it during the war in transporting troops, ammunition and supplies. After the liberation of the Philippines from the Japanese Military Occupation, the United States Armed Forces found said vessel in Cebu and sold it as "enemy property" to one Vicente Asuncion who in turn conveyed it to the defendant-appellee. In this case, this Court held that under Article 53 of the "Regulations Respecting the Laws and Customs of War on Land," appended to the Hague Convention of 1907, the Japanese Army of occupation was allowed to seize said vessel although it belonged to a private person but at the conclusion of the war, it was required to restore said vessel to its owner and to pay indemnities therefor. Here, the title to the vessel did not pass to the Japanese Imperial Army but remained in the owner. The vessel did not become enemy property and was not such when the United States Armed Forces seized and sold it to the defendant-appellee. The sale of the vessel did not divest the plaintiff-appellant of his title to it.

Clearly, the foregoing rulings unfold the principle that private property seized and used by the enemy in times of war under circumstances not constituting a valid requisition does not become enemy property for what was acquired by the enemy is only its temporary use as dictated by the exigencies and necessities of war while the ownership thereof remains in private individuals or entities. In the light of the foregoing rulings no other conclusion can be arrived at than that the Japanese Imperial Army in seizing the properties in question acquired no title over them but only their temporary use. Hence, the same can not be treated as enemy properties as contemplated in the Trading with the Enemy Act of 1917 and therefore cannot be subjected to the Vesting Order No. P-386 of the Philippine Alien Property Administrator. Consequently, the claim that the plaintiffs have no more right to recover the properties in question deserves no merit.

However, since the defendant-appellant Manila Railroad Company has been using the lands in question for the maintenance of a railroad track to serve a public need and has expressed its willingness to pay the owners thereof the just compensation for the said properties at such value as the court may determine,[7] We find the decision of the court a quo to be in order.

IN VIEW OF THE FOREGOING, the judgment of the lower court is hereby affirmed in toto. With costs against defendant-appellant.

SO ORDERED.

Castro (Chairman), Makasiar, Esguerra, and Muñoz Palma., JJ., concur.

[1] See also case of Herbert Brownell, Jr. vs. Sun Life Insurance of Canada, G.R. No. L-5731, June 22, 1954.

[2] "Section 9 (a). That any person not an enemy or ally of enemy claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian or seized by him hereunder and held by him, may file with the said Custodian a notice of his claim under oath and in such form and containing such particulars as the said Custodian shall require ... if the claimant shall have filed the notice required . . . and shall have made no application to the President said claimant may institute a suit. . . (before the Courts of First Instance of the Republic of the Philippines under Section 3 of the Property Act of 1946) ... to establish the interest, right, title, or debt so claimed, and if so established the court shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the Alien Property Custodian or the interest therein to which the Court shall determine said claimant is entitled . . ."

[3] "Section 33. — No return may be made pursuant to Section 9 (a) unless notice of claim for return has been filed within two years from the seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which the claim is made or within two years from the date of enactment of the section, whichever is later. No suit pursuant to Section 9 (a) may be instituted after the expiration of two years from the date of seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which relief is sought or from the date of enactment of this section, whichever is later, but in computing such two years there shall be included any period during which there was pending suit or claim for return pursuant to Section 9 (a) or 32 hereof (Trading with Enemy Act of 1917).

[4] For purposes of the Trading with the Enemy Act of 1917, "enemy" is defined as: (a) any individual, partnership, or other body of individuals, of any nationality resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war. or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory; (b) the government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official or agency thereof; (c) such other individual, or body or class of individuals, as may be natives, citizens or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include the term 'enemy'" (56 Am. Jur. 204).

[5] No. L-5080, November 29, 1954.

[6] No. L-2939, Aug. 29, 1950, 87 Phil. 204.

[7] Paragraph 10, Stipulation of Facts.

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