

MILAGROS M. VDA. DE GARCIA, ARTURO GARCIA, MILAGROS GARCIA, PATRIA GARCIA, MAGDALENA GARCIA, LEON GARCIA, JR., MANUEL GARCIA, AMADO GARCIA AND ANTONIO GARCIA, PETITIONERS-APPELL...

G.R. Nos. L-26888-89. March 17, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review of the decision of the Auditor General dated May 15, 1964, denying the two claims of the herein petitioners-appellants for payment of the value of portions of their property allegedly taken and used by the Government in the alleged widening of Uyanguren Street in Davao City in the year 1953.

On June 22, 1960, two petitions for the payment of portions of lands allegedly taken and used by the Government in the alleged widening of Uyanguren Street, a national road in Davao City, were filed with the Office of the Auditor General. One claim was filed by Mrs. Milagros Vda. de Garcia, solely for herself, claiming payment to her of the amount of P190,240.00 as the total cost of 2,378 square meters of her land, at P80.00 per sq. m., allegedly taken by the Government for the widening of the Uyanguren Street, Davao City, from her Lot No. 1, PNC154 covered by Transfer Certificate of Title No. T-3819. The other claim was filed by Mrs. Milagros Vda. de Garcia, together with her children, namely, Arturo, Milagros, Patria, Magdalena, Leon Jr., Manuel, Amado and Antonio, all surnamed "Garcia", as heirs of the late Leon A. Garcia, Sr., claiming the amount of P161,942.40 as payment for 2,024.28 sq. m. at P80.00 per sq. m. likewise taken by the Government allegedly for the widening of Uyanguren Street, Davao City, from their Lots Nos. 181-B-2-C and 181-B-2-B, covered by Transfer Certificates of Titles Nos. T-7038 and T-7037. The two claims amount to P352,182.40.

The total area allegedly taken by the Government is 4,402.28 sq. m., which the petitioners claim to have been used in widening Uyanguren Street from 10 meters to 15 meters wide in the year 1953. Petitioners-appellants aver that the original width of Uyanguren Street before 1953 was only 10 meters. The street was widened in 1953 to 15 meters by the addition of 2 1/2 meters on each side where the 4,402.28 sq. meters of land belonging to the petitioners was allegedly used by the Government.

To establish their claims, petitioners-appellants presented copies of Transfer Certificates of Titles Nos. T-7038 and T-7037 showing the description of their properties and the width of Uyanguren Street as only 10 meters. They also presented a photostatic copy of a map (Annex "B" of their claims) showing the general condition of Uyanguren Street prior to 1953 and where it appears that the alignments of the street on both sides bordering the properties of the petitioners-appellants are irregular, some parts being only 5 meters from the center of the street and other parts ranging from 7.4 to 7.6 meters therefrom. Petitioners likewise presented the affidavits of some residents of Davao City purporting to show that the width of Uyanguren Street before the big fire in December, 1952 in the city was only 10 meters and that it was only after the fire that the new buildings constructed along Uyanguren Street were made to follow a definite and uniform distance of 7.5 meters from the center of the street.

Petitioners further claim that they have been paying the realty taxes for the portions of land allegedly taken and used by the Government for the alleged widening of Uyanguren Street up to 1953. After 1953 the petitioners caused the exclusion of the portions taken away by the Government from their respective tax declarations. Petitioners also cited the document executed by Yee Dock Kiu and Yee Tock Sum on January 19, 1953, granting to the City of Davao a road-right-of-way on their property alleged-ly for the construction of Uyanguren Street. The document embodying the right of way agreement appears to have been signed by the Mayor of Davao City instead of the Director of Public Highways, which is rather irregular as it is the latter that is supposed to execute such agreement.

The City Appraisal Committee, the City Engineer of Davao, the Commissioner of Public Highways and the Undersecretary of Public Works and Communications, on the other hand, came out in opposition to the claims of the petitioners, maintaining that Uyanguren Street had existed with its standard 15-meter width since its construction before 1918, and that no widening of the street has ever been made since its construction. They further aver that the claim of the petitioners has already prescribed.

In support of the contention of the objecting public officials and agencies, the following documents were presented for consideration: (1) Resolution No. 25 of the Davao City Appraisal Committee, dated December 7, 1960, showing the Committee's findings after an ocular inspection that Uyanguren Street was constructed long before the last World War and has been existing with its present standard width of 15 meters from the time of its construction; (2) several official communications, particularly the 3rd Indorsement of the Davao City Engineer, dated August 29, 1960, which states, among others, that the building line along Uyanguren Street and within the area owned by the Garcia Family, as shown in the building permits issued as early as 1946, is 7.50 meters from the center of the road, which was also the same building line then before the war, and the fact that the present Division Engineer of the Bureau of Public Highways found the said street already existing when he first arrived in Davao in the year 1928; (3) other documents and official papers attesting to the fact that Uyanguren Street has been in existence since before the year 1918 and was then constructed with earth, sand and finger corals and on both sides of said street were swamp lands and mangroves; (4) the 18th Indorsement also of the City Engineer of Davao, dated August 6, 1963, stating among others, that there has been no change of alignment in any section nor was there any widening ever made of the said street since the last World War, and that pre-war plans of main streets of Davao City show that the width of Uyanguren Street, a main thoroughfare of the City and a national road at that, was already then fifteen (15) meters.

There is, therefore, no dispute that Uyanguren Street has been in existence since before the year 1918, that is, before the issuance of Original Certificates of Titles Nos. 40 and 74, both issued in the year 1921, from which Transfer Certificates of Titles Nos. T-3819, T-7037 and T-7038 of the petitioners were derived.

The success of the claims of the petitioners-appellants depends on whether Uyanguren Street, now Magsaysay Avenue, was actually widened from 10 meters to 15 meters by the Government in 1953, after the big fire in Davao City in 1952.

In disposing of the question, the General Auditing Office, in a letter-decision dated May 15, 1964, ruled that there was no widening of the street in question. It said as follows:

"This Office is of the opinion that the width of what is Uyanguren Street was already 15 meters before the last World War, and even at the time of its construction before 1918. Since the predecessors-in-interest of the claimants did not lay any claim for payment of the portion traversed by the street, it is presumed that those predecessors-in-interest had ceded to the government the said road-right-of-way.

"Finally, this Office is likewise of the opinion that even if they had not been paid then for those portions of

their land, their claims, if any, had already prescribed, under the provisions of Articles 1144 and 1145 of the New Civil Code. The present claimants cannot be in a better condition or position with respect to such claim, than their predecessors-in-interest.

"For all the foregoing, the said claim, with regrets, are hereby denied."

Against this decision of the Auditor General, the petitioners filed their Motion for Reconsideration and Supplemental Motion for Reconsideration dated October 26, 1964 and November 17, 1964, respectively, which were denied in his letter-decision dated October 10, 1966, which was received by the petitioners on October 27, 1966.

Hence this petition for review.

The pivotal question to determine is whether or not the ruling of the General Auditing Office that the actual width of Uyanguren Street, now Magsaysay Avenue, Davao City, at the time of its construction sometime before 1918 was 15 meters wide and remained as such before the issuance of the Torrens Certificates of Titles covering the lands of the herein petitioners bordering the street in question, is supported by substantial evidence. If so, there is no room for reversal or modification thereof.

There is no dispute as to the existence of the street even before 1918, and the only question to settle is its width, more particularly its width before the year 1953.

Petitioners-appellants maintain that the width of the street before 1953 was only 10 meters, and it was widened in 1953 to 15 meters by the Government by adding 2 1/2 meters each on both sides of the street.

The facts upon which the Auditor General based his decision or ruling against the petitioners are clear and incontrovertible. We have read and re-read the records of the case and this Court cannot find any flaw in the findings of fact of the Auditor General to warrant nullification of his decision. As borne out by the records of the case, his findings are supported by evidence substantial enough to adequately support his conclusion.

Our decision on the main issue renders unnecessary any further discussion of the other features of the case presented in petitioners' brief, except to say, on the side issue of prescription, that while prescription never prevails against a Torrens Title, Uyanguren Street, now Magsaysay Avenue, however, existed long before the issuance of the Original Certificates of Titles in 1921 from which the Transfer Certificates of Titles of the petitioners were derived in 1942 and 1957. The petitioners' titles issued thereabout, therefore, could not and did not include such public thoroughfares as were already in existence (Jaime Rosario vs. Auditor General, No. L-11817, April 30, 1958; 103 Phil. 1132; Sec. 39, The Land Registration Act, No. 496, Approved, November 6, 1902). It is Our opinion that there was no error committed by the Auditor General in the decision appealed from which would prejudice the petitioners-appellants.

WHEREFORE, the decision appealed from is hereby affirmed.

Without special pronouncement as to costs.

SO ORDERED.

Makalintal, C.J., (Chairman), Castro, Teehankee, and Makasiar, JJ., concur.

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