

**PRAXEDES GABRIEL, ANDREA GABRIEL, TRINIDAD GABRIEL,
RIZALINA GABRIEL, ESTER GABRIEL, VICTORIA GABRIEL, SALUD
GABRIEL, BENJAMIN GABRIEL, ANDRES GABRIEL, JR., BERNARDO
SANTIAGO, E...**

G.R. No. L-22305. April 30, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an original action for certiorari and/or prohibition to set aside an order of respondent Judge, Andres Reyes, dated October 22, 1963, in Case No. 7737 of the Court of First Instance of Rizal and to restrain further proceedings in said case.

Petitioners herein[1] are the owners of a parcel of land, of about 41,671.44 square meters, situated in the barrio of Dampalit, municipality of Malabon, province of Rizal. On October 25, 1947, the Republic of the Philippines instituted against them Civil Case No. 344 of the Court of First Instance of Rizal for the expropriation of said land in order to distribute the same in small lots to its occupants, pursuant to Commonwealth Act No. 539, The defendants in that case objected to said expropriation upon several grounds, among others, that, its purpose, considering the size and nature of said land and the aforementioned intent to distribute it in small lots, is not a public use. Although this objection was overruled by said court, its resolution and an order thereof to this effect were, on appeal, set aside by this Court in G. R. No. L-6161, on May 28, 1954, and the complaint therein dismissed, relying upon *Guido vs. Rural Progress Administration*, L-2089 (81 Phil., 512); *Commonwealth vs. Borja* (79 Phil., 591); *Arellano Law College vs. City of Manila* (85 Phil., 663); and *Urban Estates, Inc. vs. Montesa* (88 Phil., 348).

Inasmuch as, upon the institution of said expropriation case, the plaintiff therein had, pursuant to an order of the trial court dated October 28, 1957, been placed in possession of the aforementioned property, upon deposit with the Clerk of Court of the sum of P6,640 as its provisional value, the dispositive part of the decision of this Court, was, on motion for reconsideration of the defendants therein (petitioners herein), amended on July 1, 1954, with a directive to the effect that said defendants be immediately reinstated in the possession of said property and that the case be remanded to the lower court for the reception of evidence on the damages sustained by them in consequence of the deprivation of said possession.

This notwithstanding, said defendants and petitioners herein did not recover said possession. When they asked the lower court to issue a writ of execution for the ejectment of the occupants of said lots, the court of first instance denied the motion upon the ground that said occupants were not parties in the expropriation case. A petition for certiorari filed by herein petitioners to set aside said order of the lower court having been denied by the Supreme Court, petitioners were constrained to file individual civil actions against said occupants, eight (8) of whom eventually entered into compromise agreements with petitioners herein, whereas the other occupants, numbering more than 100, were declared in default and eventually sentenced to vacate the land in question. In due course, the

corresponding judgment against these occupants become final and executory.

Still, petitioners failed to repossess said land. Instead, on or about June 17, 1963, the Republic of the Philippines, represented by the Land Tenure Administration, filed against them civil case No. 7737 of the Court of First Instance of Rizal, to expropriate the same land, pursuant allegedly to Sections I and 2 of the Republic Act No. 1162, as amended. Upon being summoned, the defendants therein and petitioners herein moved to dismiss said case, relying upon the decision of this Court in G. R. No. L-6161. This motion was, on October 22, 1963, denied by said Court of First Instance, presided over by respondent Judge. Soon thereafter, petitioners instituted the present action against respondent Judge and the Republic of the Philippines.

Respondents maintain that the decision in G. R. No. L-6161 does not bar said case No. 7737 of Rizal because the expropriation case involved in G. R. No. L-6161 had been instituted pursuant to Commonwealth Act No. 539,[2] whereas said Civil Case No. 7737 was based upon Republic Act No. 1162,[3] as amended.

It should be noted, however, that said two acts of Congress purport to have been passed pursuant to Section 4 of Article XIII of the Constitution which provides that:

"The Congress may authorize, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals."

and that in disposing of the first expropriation case, this Court said:

"We note that the land subject of expropriation merely consists of 41,671.44 sq. m., part agricultural and part residential. This land formerly belonged to Potenciano Gabriel, and, upon his death, was inherited by his three children, and the children of a deceased child. These heirs had submitted a subdivision plan of the land, and, as subdivided, the children would barely receive one hectare each. This property can hardly be considered landed estate within the purview of the Constitution. It would, therefore, appear that this case is on all fours with the cases we have already decided (Guido vs. Rural Progress Administration, G. R. No. L-2089; Cayetano de Borja vs. Commonwealth of the Philippines, G. R. No. L-1496; Arellano Law College vs. City of Manila, G. R. No. L-2929, and Urban Estates, Inc. vs. Hon. Montesa, G. R. No. L-3830) and as such cannot be the subject of expropriation. The following comment is decisive of the present case:

'The Guido, De Borja and Arellano College decisions expressly recognize the power of the Government to expropriate urban lands or rural estates for subdivision into lots. What these decisions emphasize is the distinction, set in broad outline, between taking that inures to the welfare of the community at large and taking that benefits a mere handful of people bereft of public character. In explaining the distinction we mentioned public benefit, public utility, or public advantage as the universal test of the exercise of the right of eminent domain, and warned of the tendency to expand the construction of Section 4, Article XIII, of the Constitution 'to the limit of its logic'.

'It is a matter of common knowledge that there were and there are lands, comprising whole towns and municipalities, which were or are owned by one man or a group of men from whom their inhabitants hold the lots on which their homes are built as perpetual tenants. These are urban lands. And there are private lands which it may be necessary to convert into townsites and the townsites into house lots. It is also a matter of past and contemporary history that feudalism has been the root cause of popular discontent that led to revolutions and of present unrest and political and social disorders.

'It was such lands taken for such purpose which we said the framers of the Constitution had in mind and which the National Government and, with appropriate legislative authority, the cities and municipalities may condemn. We stated that it is economic slavery, feudalistic practices, endless conflicts between landlords and tenants, and allied evils which it is the authority, nay the duty, of the State to abolish by acquiring landed estates by purchase if possible or by condemnation proceedings if necessary.

'In brief, the Constitution contemplates large scale purchases or condemnation of lands with a view to agrarian reforms and the alleviation of acute housing shortage. These are vast social problems with which to the Nation is vitally concerned and the solution of which would redound to the Commonwealth. Condemnation of private lands in a makeshift or piecemeal fashion, random taking a small lot here and a small lot there to accommodate a few tenants or squatters is a different thing. This is true be the land urban or agricultural. The first sacrifices the rights and interest of one or a few for the good of all; the second is deprivation of a citizen of his property for the convenience of another citizen or a few other citizens without perceptible benefit to the public. The first carries the connotation of public use; the last follows along the lines of a faith or ideology alien to the institution of property and the economic and social systems consecrated in the Constitution and embraced by the great majority of the Filipino people.' (Urban Estates, Inc. vs. Hon. A. P. Montesa, G. R. No. L-3830.)"

Inasmuch as Republic Act No. 1162, as amended, is predicated upon the same constitutional mandate on which Commonwealth Act No. 539 was anchored, it follows necessarily that the cause of action in both proceedings is substantially the same, that our decision in G. R. No. L-6161—especially, insofar as the question whether or not a land less than 4.2 hectares in area is a "landed estate", as the term is used in Republic Act No. 1162—applies with equal force to proceedings under Republic Act No. 1162, as amended, and hence, to said case No. 7737 of the Court of First Instance of Rizal, and, that, accordingly, respondent Judge has committed a grave abuse of discretion in issuing the order complained of.[4]

Wherefore, said order is hereby set aside and respondent Judge perpetually restrained from further proceeding in said Case No. 7737, without special pronouncement as to costs. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

[1] Praxedes, Andrea, Trinidad, Rizalina, Ester, Victoria, Salud, Benjamin, Andres, Jr., all surnamed Gabriel, and Bernardo Santiago, Esteban Buendia, Mauricio Santiago, Eusebio Batacan and Jose Kamatoy.

[2] Entitled: "An Act Authorizing the President of the Philippines to acquire Private Lands for Resale in Small Lots * * *."

[3] Entitled: "An act providing for the expropriation of landed estates or haciendas or lands which formed part thereof in the City of Manila, their subdivision into small lots, and the same of such lots at cost or their lease on reasonable terms and for other purposes." (Italics supplied.)

[4] See, also, Republic vs. Baylosis, 96 Phil., 461; 51 Off. Gaz., 722; Province of Rizal vs. San Diego, 105 Phil., 33.

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