

ROSARIO G. JIMENEZ, PETITIONER, VS. THE HON. COURT OF APPEALS, FORMER SEVENTEENTH DIVISION, NATIONAL HOUSING AUTHORITY (NHA), MONICO V. JACOB, GEN. MANAGER, AMADO BAGING, ELMER ...

G.R. No. 106136. June 13, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

This petition seeks a review of the Court of Appeals decision rendered on February 24, 1992 denying the petition for certiorari in C.A.-G.R. SP No. 24869 and affirming the NHA decision denying nullification of the lot award in favor of private respondents.

In July 1962, Rosario Jimenez acquired possession of Lot No. 5, Block 29, Phase I (Lot 30-A-1) Tramo/Singalong Project of the National Housing Authority (NHA), pursuant to a contract of lease with the Philippine National Railways (PNR). Jimenez erected a two-storey residential building on this lot which was declared in her name for purposes of taxation. Consequently, she declared the improvement which she introduced on the lot for tax purposes and religiously paid the real estate taxes thereon.

On November 3, 1965, Jimenez was issued a "Certificate of Priority" by the Board of Liquidators under the Office of the President of the Philippines, entitling her to priority in the acquisition of said parcel of land, "subject to such rules and regulations as may hereafter be promulgated."

In 1983, seizing a business opportunity, petitioner and her late husband decided to rent a house in Sta. Ana, Manila and reside there. They then leased different portions of the house that had been constructed on the parcel of land in question to the respondents on different dates.

In 1988, the NHA conducted a census survey of the Singalong project and found that petitioner was an absentee structure owner, hence, not qualified for a lot award in the project. The parcel of land in question was awarded instead to the private respondents who thereafter refused and failed to pay the rentals due on the house leased to them by the petitioner.

Petitioner sued private respondents in three (3) separate cases of ejectment in the Municipal Trial Court of Manila, docketed as Civil Case No. 130164 - CV MTC - Branch 8, Manila entitled "Rosario Jimenez v. Nilda Baging;" Civil Case No. 12970-CV MTC Branch 28, Manila, entitled "Rosario Jimenez v. Elmer Ormido, et al." and Civil Case No. 1299071-CV, MTC-Manila, entitled "Rosario Jimenez v. Lourdes Junsay."

Meanwhile, petitioner sought a review and nullification of the award made by the NHA in NHA Case No. 175 entitled "Rosario Jimenez v. Mariano Ranner III, Rosalinda Certates, Henry L. Salinao, Aurora Franco, Lourdes Junsay, Elmer Omido and Nilda Baging." In a letter dated April 4, 1990 signed by the NHA General Manager, the petition was denied and the award affirmed. Petitioner formally informed the NHA of the decisions rendered in the ejectment suits in her favor through a letter dated June 11, 1990 delivered to the NHA General Manager.

Jimenez then filed C.A.-G.R. SP No. 22894 in the Court of Appeals, praying that a writ be issued annulling the award of the contested lot to Baging, Ornido and Junsay. The CA dismissed the petition on a technical ground - failure to inform public respondents of the supervening decisions rendered in the ejectment suits. Petitioner moved for a reconsideration but the motion was denied. In its resolution of denial, the Court of Appeals emphasized that petitioner's remedy was to file a motion for reconsideration of the General Manager's decision of April 4, 1990 based on the supervening decisions of the MTC. Heeding these declarations, petitioner filed a motion for reconsideration with the NHA on February 21, 1991. The NHA however denied petitioner's motion for reconsideration in a letter dated April 16, 1991 with the observation that petitioner's Certificate of Priority to buy the contested lot given in her favor in 1965 did not bind the present administration, considering that from the time she was granted such certification, she left the area many years ago and rented out her house to others. In so doing, she ran the risk of losing her rights to be accorded preference in purchasing the lot, since her being an absentee structure owner disqualified her for a lot award in the project area in accordance with the existing NHA policies, rules and regulations.

Petitioner filed a petition for certiorari and prohibition in the Court of Appeals in C.A.-G.R. SP No. 24869 to annul the award of the contested lot to private respondents. On February 24, 1992, the Court of Appeals rendered a decision^[1] denying the petition with costs against the petitioner. It held that while petitioner claimed that she actually furnished the respondent NHA the MTC-Manila decisions in the ejectment cases, she did so only on June 11, 1990 after the NHA letter-decision had already been penned on April 4, 1990 or two months earlier. Instead of moving for a reconsideration of that decision, petitioner went directly to the Court of Appeals, charging the NHA General Manager with grave abuse of discretion in disqualifying her from the award of the contested homelot.

Petitioner filed a motion for reconsideration of the Court of Appeals decision but it was likewise denied.

Hence, this petition.

Petitioner questions the denial of her right to acquire the property for being an "absentee structure owner," alleging that she had already perfected her right to acquire the property when PD 1517 was promulgated in 1978. She assails the failure of the NHA to apply the provisions of Section 6 of PD 1517^[2] under which the Court of Appeals rendered its decision. She asserts that she enjoys the right of first refusal to purchase the lot at a reasonable price within a reasonable time and that whether she failed or not to bring to the attention of NHA the matter of the court decisions in the ejectment cases is really of no moment because private respondents occupied the lot as sub-lessees by virtue of a contract of lease with her, not in the concept of dominion or ownership. More importantly, their continued possession of the house and lot has been declared unlawful by the ejectment courts.

The only issue in the eviction cases before the MTC courts is the right of possession to the structure rented out by petitioner to private respondents. That issue is entirely different from the issue in the case at bench as to who has the better right to the award of the contested lot. The proper authority to resolve the issue is public respondent which has the authority to dispose of lands of the public domain under its administration.^[3]

The NHA Tramo/Singalong ZIP Project was undertaken to carry out a constitutional mandate of the government to provide affordable housing to the marginal group of our people, and in awarding of project homelots, priority is given to those who need affordable housing most. Clearly, entitlement to priority in the acquisition of these homelots is subject to NHA policies, rules and regulations, pursuant to Presidential Decree No. 1517, otherwise known as the Urban Land Reform Law which was promulgated on June 11, 1978.

The records disclose, and it is not disputed, that what was issued to petitioner was merely a Certificate of Priority by the Board of Liquidators, not a perfected award or contract of sale over the contested lot in her favor. Where a grantee of a Certificate of Priority is found not qualified to acquire the same or fails to comply with NHA rules,

regulations and policies, public respondent is justified in not bestowing the award of the lot in her favor. By insisting on the strict application of Section 6 of PD 1517, petitioner is deprived of her Certificate by her earlier omission or non-compliance thereof. She herself is to blame for the change in her situation from the time she was awarded said certificate to the present.

Under NHA policies, an absentee censused household is automatically disqualified from lot allocation. Such disqualified party has three (3) options for disposition of his/her structures or dwelling units:

1. sell these to all interested censused household occupants;
2. after censused occupants have waived their rights of pre-emption, sell the structure or dwelling unit to any censused household; or
3. voluntarily dismantle the same if such is not occupied or rented out by a duly censused household (Circular No. 13 V [3] and VI [2]).

On the other hand, respondents did not come to court with clean hands and cannot, therefore, be allowed to stake a claim upon their own wrong doing.

In light of extant evidence that the lease over the house constructed on the contested lot was executed in 1983 and it was in 1988 when a census survey of the Tramo/Singalong project was conducted, resulting in the grant of the lot award in favor of such lessees (herein private respondents), they quite obviously also lack the qualifications to merit such award, having legally occupied the premises as mere "apartment dwellers" for only five (5) years. Moreover, as found by the courts below, they were remiss in paying monthly rentals since 1990. Having defaulted in the payment of their lease rentals, clearly, their right to occupy the subject premises ceased. Thus, when petitioner asked them to vacate, they were already deforciant or illegal occupants of the leased apartment.[4]

WHEREFORE, the assailed decision is SET ASIDE. A new judgment is hereby ENTERED declaring both petitioner and private respondents legally DISQUALIFIED from being awarded the lot in question.

Let Lot No. 5, Block 29, Phase 1 (Lot 30-A-1) of the Tramo/Singalong Project REVERT to public respondent National Housing Authority for proper disposition to legally qualified applicants.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] Decision penned by Associate Justice Pedro A. Ramirez, concurred in by Justices Antonio A. Martinez and Fermin A. Martin, Jr.; Rollo, pp. 38-47.

[2] "Section 6. Land Tenancy in Urban Land Reform Areas. - Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the land and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree."

[3] *Cerdon v. Court of Appeals*, G.R. No. 47422, April 6, 1990, 184 SCRA 198.

[4] *Joya v. CA*, G.R. No. 89734, February 27, 1991, 194 SCRA 565.

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