

PHILIPPINE COLUMBIAN ASSOCIATION, PETITIONER, VS. THE HONORABLE DOMINGO D. PANIS, AS JUDGE, REGIONAL TRIAL COURT OF MANILA, BRANCH 41, THE HONORABLE RICARDO DIAZ, AS JUDGE, REGI...

G.R. No. 106528. December 21, 1993

Ponente: QUIASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-106528/>

QUIASON, J.:

This is an appeal by certiorari to review: (1) the decision of the Court of Appeals in CA-G.R. SP No. 23338, which dismissed the petition for certiorari filed by herein petitioner, assailing the orders of (a) respondent Judge Domingo D. Panis of the Regional Trial Court, Branch 41, Manila, in Civil Case No. 90-53531, and (b) respondent Judge Ricardo D. Diaz, of the Regional Trial Court, Branch 27, Manila, in Civil Case No. 90-53346; and (2) its Resolution dated July 30, 1992, which denied the motion for reconsideration of the decision.

Philippine Columbian Association, petitioner herein, is a non-stock, non-profit domestic corporation and is engaged in the business of providing sports and recreational facilities for its members. Petitioner's office and facilities are located in the District of Paco, Manila, and adjacent thereto, is a parcel of land consisting of 4,842.90 square meters owned by petitioner.

Private respondents are the actual occupants of the said parcel of land, while respondents Antonio Gonzales, Jr. and Karlo Butiong were duly-elected councilors of the City of Manila.

In 1982, petitioner instituted ejectment proceedings against herein private respondents before the Metropolitan Trial Court of Manila. Judgment was rendered against the said occupants, ordering them to vacate the lot and pay reasonable compensation therefor. This judgment was affirmed by the Regional Trial Court, the Court of Appeals and subsequently by the Supreme Court in G.R. No. 85262.

As a result of the favorable decision, petitioner filed before the Metropolitan Trial Court of Manila, a motion for execution of judgment, which was granted on April 9, 1990. A writ of demolition was later prayed for and likewise issued by the same court on May 30, 1990.

On June 8, 1990, private respondents filed with the Regional Trial Court, Branch 27, Manila, a petition for injunction and prohibition with preliminary injunction and restraining order against the Metropolitan Trial Court of Manila and petitioner herein (Civil Case No. 90-53346) to enjoin their ejectment from and the demolition of their houses on the premises in question.

On June 28, 1990, the City of Manila filed a complaint docketed as Civil Case No. 90-53531 against petitioner before the Regional Trial Court, Branch 41, Manila, for the expropriation of the 4,842.90 square meter lot subject of the ejectment proceedings in Civil Case No. 90-53346. Petitioner, in turn, filed a motion to dismiss the complaint, alleging, inter alia, that the City of Manila had no power to expropriate private land; that the expropriation is not for public use and welfare; that the expropriation is politically motivated; and, that the deposit

of P2 million of the City of Manila representing the provisional value of the land, was insufficient and was made under P.D. 1533, a law declared unconstitutional by the Supreme Court.

On September 14, 1990, the Regional Trial Court, Branch 41, Manila, denied petitioner's motion to dismiss and entered an order of condemnation declaring that the expropriation proceeding was properly instituted in accordance with law. The court also ordered the parties to submit, within five days, the names of their respective nominees as commissioners to ascertain just compensation for the land in question.

Petitioner filed a motion for reconsideration of the order denying its motion to dismiss, and later a motion to defer compliance with the order directing the submission of the names of nominees to be appointed commissioners. The City of Manila, however, filed an ex-parte motion for the issuance of a writ of possession over the subject lot, mentioning the P2 million deposit with the Philippine National Bank, representing the provisional value of the land.

In separate orders dated October 5 and 8, 1990, the court issued the writ of possession, and at the same time, denied petitioner's motion to defer compliance and motion for reconsideration.

On September 21, 1990, as a result of the expropriation proceedings, the Regional Trial Court, Branch 27, Manila, in Civil Case No. 90-53346 issued an order, granting the writ of preliminary injunction prayed for by private respondents. A motion for reconsideration filed by petitioner was denied.

Petitioner filed before the Court of Appeals a petition assailing the orders dated September 14, 1990, and October 5 and 8, 1990 of Branch 41 of the Regional Trial Court, and the Order dated September 21, 1990 of Branch 27 of the same court (CA-G.R. SP No. 23338). The Court of Appeals rendered a Decision on November 31, 1992, denying the petition, and a Resolution on July 30, 1992, denying reconsideration thereof.

Hence, this petition.

The land subject of this case is the 4,842.90 square meter lot, which was formerly a part of the Fabie Estate. As early as November 11, 1966, the Municipal Board of the City of Manila passed Ordinance No. 5971, seeking to expropriate the Fabie Estate. Through negotiated sales, the City of Manila acquired a total of 18,017.10 square meters of the estate, and thereafter subdivided the land into home lots and distributed the portions to the actual occupants thereof.

The remaining area of 4,842.90 square meters, more or less, was sold in 1977 by its owner, Dolores Fabie-Posadas, to petitioner. Since the time of the sale, the lot has been occupied by private respondents.

On May 23, 1989, the City Council of Manila, with the approval of the Mayor, passed Ordinance No. 7704 for the expropriation of the 4,842.90 square meter lot.

Petitioner claims that expropriation of the lot cannot prosper because: (1) the City of Manila has no specific power to expropriate private property under the 1987 Constitution; and (2) assuming that it has such power, this was exercised improperly and illegally in violation of the public use requirement and petitioner's right to due process.

Petitioner argues that under the 1987 Constitution, there must be a law expressly authorizing local governments to undertake urban land reform (Art. XIII, Sec. 9).

Petitioner forgot that the Revised Charter of the City of Manila, R.A. No. 409, expressly authorizes the City of Manila to "condemn private property for public use" (Sec. 3) and "to acquire private land x x x and subdivide the same into home lots for sale on easy terms to city residents" (Sec. 100).

The Revised Charter of the City of Manila expressly grants the City of Manila general powers over its territorial

jurisdiction, including the power of eminent domain, thus:

"General powers.-- The city may have a common seal and alter the same at pleasure, and may take, purchase, receive, hold, lease, convey, and dispose of real and personal property for the general interest of the city, condemn private property for public use, contract and be contracted with, sue and be sued, and prosecute and defend to final judgment and execution, and exercise all the powers hereinafter conferred" (R.A. 409, Sec. 3; *Italics supplied*).

Section 100 of said Revised Charter authorizes the City of Manila to undertake urban land reform, thus:

Sec. 100. The City of Manila is authorized to acquire private lands in the city and to subdivide the same into home lots for sale on easy terms to city residents, giving first priority to the bona fide tenants or occupants of said lands, and second priority to laborers and low-salaried employees. For the purpose of this section, the city may raise the necessary funds by appropriations of general funds, by securing loans or by issuing bonds, and, if necessary, may acquire the lands through expropriation proceedings in accordance with law, with the approval of the President xxx" (*Italics supplied*).

The City of Manila, acting through its legislative branch, has the express power to acquire private lands in the city and subdivide these lands into home lots for sale to bona-fide tenants or occupants thereof, and to laborers and low-salaried employees of the city.

That only a few could actually benefit from the expropriation of the property does not diminish its public use character. It is simply not possible to provide all at once land and shelter for all who need them (*Sumulong v. Guerrero*, 154 SCRA 461 [1987]).

Corollary to the expanded notion of public use, expropriation is not anymore confined to vast tracts of land and landed estates (*Province of Camarines Sur v. Court of Appeals*, G.R. No. 103125, May 17, 1993; *J.M. Tuason and Co. Inc. v. Land Tenure Administration*, 31 SCRA 413 [1970]). It is therefore of no moment that the land sought to be expropriated in this case is less than half a hectare only (*Pulido v. Court of Appeals*, 122 SCRA 63 [1983]).

Through the years, the public use requirement in eminent domain has evolved into a flexible concept, influenced by changing conditions (*Sumulong v. Guerrero*, *supra*; *Manotok v. National Housing Authority*, 150 SCRA 89 [1987]; *Heirs of Juancho Ardon v. Reyes*, 125 SCRA 220 [1983]). Public use now includes the broader notion of indirect public benefit or advantage, including in particular, urban land reform and housing.

This concept is specifically recognized in the 1987 Constitution which provides that:

x x x x x x x x

"The state shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners" (Art. XIII, Sec. 9; *Italics supplied*).

x x x x x x x x

The due process requirement in the expropriation of subject lot has likewise been complied with. Although the motion to dismiss filed by petitioner was not set for hearing as the court is required to do (*National Housing Authority v. Valenzuela*, 159 SCRA 396 [1998]), it never questioned the lack of hearing before the trial and appellate courts. It is only now before us that petitioner raises the issue of due process.

Indeed, due process was afforded petitioner when it filed its motion for reconsideration of the trial court's order,

denying its motion to dismiss.

The Court of Appeals, in determining whether grave abuse of discretion was committed by respondent courts, passed upon the very same issues raised by petitioner in its motion to dismiss, which findings we uphold. Petitioner therefore cannot argue that it was denied its day in court.

The amount of P2 million representing the provisional value of the land is an amount not only fixed by the court, but accepted by both parties. The fact remains that petitioner, albeit reluctantly, agreed to said valuation and is therefore estopped from assailing the same. It must be remembered that the valuation is merely provisional. The parties still have second stage in the proceedings in the proper court below to determine specifically the amount of just compensation to be paid the landowner (Revised Rules of Court, Rule 67, Sec. 5; *National Power Corporation v. Jocson*, 2?? SCRA 520 [1992]).

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Bellosillo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.