

ESTANISLAO ALFONSO, PLAINTIFF AND APPELLANT, VS. PASAY CITY, DEFENDANT AND APPELLEE.

G.R. No. 12754. January 30, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Estanislao Alfonso is appealing from the decision of the Court of First Instance of Rizal (Pasay City Branch), dated November 26, 1958, Civil Case No. 1489-P, dismissing his complaint on the ground of laches and prescription. The decision is based on a stipulation of facts submitted by the parties. For this reason, we are reproducing the statement of facts made by the trial court, which is as follows:

"The parties herein entered into a stipulation of facts. The undisputed facts are: Lot No. 4368 containing an area of 719.92 sq. meters, situated in Pasay City is covered by transfer certificate of title No. 1057 (30999) in the name of plaintiff Estanislao Alfonso. In 1925, the then Municipality of Pasay extended Park Avenue, to public street southward and the extension passed through lot 4368 so that said lot was thereby converted into a park of Park Avenue extension. In converting lot No. 4368 as part of Park Avenue extension, no expropriation proceedings was instituted by the then municipality of Pasay and neither was herein plaintiff paid any compensation for the lot. Since 1925 to the present the lot was continually used as a part of Park Avenue extension. Because of the failure of the municipality of Pasay or its successor, defendant Pasay City, to pay for the rental or the value of lot 4368 or to return the same when demanded to do so by plaintiff, the latter filed the present action on July 20, 1954."

This is a case where a registered owner of a parcel of land has lost possession way back in 1925 because it was taken by a municipal corporation (Municipality of Pasay) for road purposes. It was never paid for, and so the ownership thereof remained in the name of the registered owner. No annotation on said title was made as to any right, say easement of right of way, which the City of Pasay might have acquired over the land. There is some doubt as to whether Estanislao Alfonso ever made demands for the payment of his property which was taken away from him without the benefit of either expropriation proceedings or a negotiated sale. However, there is reason to believe that Alfonso has made such demands as any owner of a valuable registered property would do, but as usually the case, perhaps the demands were either ignored or action thereon was postponed and perhaps forgotten with the changes of administration in Pasay that occurred since 1925 up to 1954 when Alfonso finally brought the present action to recover either the possession of the parcel or its value.

The present case finds it parallel in the recent case of *Herrera vs. Auditor General*, 102 Phil., 875, decided by this Tribunal on January 23, 1958, where a registered owner of land in Quezon City was deprived of its possession when it was taken over by the city government for road purposes. The owner thereof made demands for the payment of his land, and although the City Attorney of Quezon City indorsed favorable action on the claim, however, the Auditor General rejected said claim on the ground of prescription. There, we held that registered lands are not subject to prescription, and that on grounds of equity, the government should pay for private property which it appropriates, though for the benefit of the public, regardless of the passing of time. This Tribunal does not look with favor on the practice of the Government or any of its branches, of taking away

property from a private landowner, especially a registered one, without going through the legal process of expropriation or a negotiated sale and paying for said property without delay. The private owner is usually at a great and distinct disadvantage. He has against him the whole Government, central or local, that has occupied and appropriated his property, summarily and arbitrarily, sometimes, if not more often, against his consent. There is no agreement as to its price or its rent. In the meantime, the landowner makes requests for payment, rent, or even some understanding, patiently waiting and hoping that the Government would soon get around to hearing and granting his claim. The officials concerned may promise to consider his claim and come to an agreement as to the amount and time for compensation, but with the not infrequent government delay and red tape, and with the change in administration, specially local, the claim is pigeonholed and forgotten and the papers lost, mislaid, or even destroyed as happened during the last war. And where finally losing patience and hope, he brings a court action and hires a lawyer to represent him in the vindication of his valid claim, he faces the government represented by no less than the Solicitor General or the Provincial Fiscal or City Attorney, who blandly and with self-assurance, invokes prescription. The litigation sometimes drags on for years. In our opinion, that is neither just nor fair. When a citizen, because of this practice loses faith in the government and its readiness and willingness to pay for what it gets and appropriates, in the future said citizen would not allow the Government to even enter his property unless condemnation proceedings are first initiated, and the value of the property, as provisionally ascertained by the Court, is deposited, subject to his disposal. This would mean delay and difficulty for the Government, but all of its own making.

In the case of *Herrera vs. Auditor General*, *supra*, we said:

"Here before us is a case of a law abiding citizen and taxpayer who as far back as 1934, realizing the need of the Government of his lot for road purposes, instead of compelling said Government to resort to expropriation proceedings, readily and in all ingeniousness allowed the Government to immediately occupy it. In his implicit trust in his Government, he did not even bother to require it to make a judicial deposit of the approximate value of his land, not even to make an offer of a price it would pay for it. But since then, he has continuously asked for the payment of said fair price as a condition precedent to his conveyance and sale of the property. But the government neglected to make an offer, much less make payment, then evidently forgot all about it, and now it flatly refuses to pay, evidently forgetting that it had also neglected to secure a conveyance of the property, so that Herrera, as already stated, is still the owner of the same. In other words, there has never been a sale by Herrera to the Government. To legalize its possession of the lot, the Government must buy it from Herrera and pay him reasonable compensation. The very Constitution enjoins it. As already said, the Government, through the City Engineer, has made an offer of an amount, not of the lot's value in the open market, but only of its assessed value, which as everyone knows, is usually much below its real value. Herrera either tired of waiting for payment, or in a spirit of cooperation with his Government, agreed to the amount of said assessed value as the purchase price, and formally accepted the offer in 1955, and yet that same Government apparently ignoring all these facts and repudiating its offer, refuses to make payment, at the same time insisting to collect and actually Collecting the real estate taxes for land which it had been occupying all these years. What we have just narrated and described does not make and form a pretty and edifying spectacle which could be presented to the citizens and taxpayers for their contemplation and inspiration. The only bright spots in the otherwise somber picture are the attitude and actions taken by the District Engineer, the Quezon City Engineer, and the City Attorney, who after due investigation, upheld the valid claim of Herrera, and recommended that he be paid just compensation. There is nothing that can more speedily and effectively embitter a citizen and taxpayer against his Government and alienate his faith in it, than an injustice and unfair dealing like the present case."

In the present case, Alfonso remains up to now the owner of the land in question, Lot No. 4368 of the Cadastral Survey of Pasay, because being registered land, the City of Pasay or its predecessor, Municipality of Pasay, did not and could not acquire it thru prescription. As registered owner, he could bring an action to recover possession at any time because possession is one of the attributes of ownership of land. However, said restoration of

possession by the City of Pasay is neither convenient nor feasible because it is now and has been used for road purposes. So, the only relief available is for the City of Pasay to make due compensation, which it could and should have done years ago since 1925.

As to the value of the property, although the plaintiff claims the present market value thereof, the rule is that to determine due compensation for lands appropriated by the Government, the basis should be the price or value at the time that it was taken from the owner and appropriated by the Government. According to the stipulation of facts, the value of the land in 1925 was P1.25 per square meter. So, for the area of 719.92 square meters, the value will be said area multiplied by P1.25. Inasmuch as the City of Pasay has not been paying rent for the use of the land since 1925, thereby causing damages in favor of the owner, said damages may be assessed in the form of legal interest on the price since 1925, up to the time when payment is made by the City of Pasay. In our opinion, the defendant city would also pay for attorney's fees which we fix in the amount of P400.00

In view of the foregoing, the appealed decision is reversed, with costs against defendant-appellee, Pasay City.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

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