

MAURO PRIETO, PETITIONER, VS. HON. HIGINIO B. MACADAEG AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH X, LUIS ALCANTARA AND AURORA ALCANTARA, RESPONDENTS.

G.R. No. 13488. January 30, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an original action for certiorari and mandamus against two orders of the Court of First Instance of Manila, Hon. Higinio Macadaeg, presiding, dated November 27, 1957 and January 23, 1958, suspending the present action of unlawful detainer until after the action for expropriation pending before another sala of the (this) court shall have been terminated. (Annex "LL".)

The record discloses that petitioner is the owner of a parcel of land containing an area of about 55,424.27 square meters, suitable for residential purposes, within which defendants are occupying a lot of 598.80 square meters situated on Gen. Geronimo St. No. 107 and on which defendants have built a house. The monthly rental of the lot is P12.50 and defendants were in arrears in the payment of the monthly rentals in the sum of P508.46 itemized as follows:

Balance due for the year 1952.....

P250.16

Balance due for the year 1953.....

P147.60

Balance due for the period from January to September 1954.....

110.70

P508.46

The above amount was found to be due by a first decision of the Municipal Court of Manila dated October 18, 1954 (Annex Exh. "C"). Upon presentation of a motion by defendants in said case, said court modified its first decision and ordered the ejectment of defendants from the land after five years from date of decision, and requiring them to pay the arrears in the rentals amounting to P508.46 plus the rentals from October, 1954 at the rate of P12.30 a month until the land is vacated. (Annex Exh. "I"). The case was appealed to the Court of First

stance of Manila and after a hearing partly based on stipulation of facts and on the pleadings, the Court of First Instance entered the order of November 27, 1957 ' now sought to be set aside, which is sought to be reversed on the ground that the court committed a grave abuse of discretion in issuing the same.

There seems to be no question that defendants, respondents herein, have been in arrears in the payment of the monthly rentals, although the lame excuse is given that the collector of the petitioner has not been going to defendants-respondents to collect their rentals. Respondents herein opposed a petition for the execution of the judgment of the Municipal Court based on the provisions of Rule 72, Rules of Court, mainly upon the provisions of Republic Act No. 1162, as amended by Republic Act No. 1599, enacted June 17, 1956, the pertinent provisions of which are as follows:

"SEC. 1. The expropriation of landed estates or haciendas, or lands which formerly formed part thereof, in the City of Manila, which are and have been leased to tenants for at least ten years, is hereby authorized: Provided, That such lands shall have at least fifty houses of tenants erected thereon."

"SEC. 5. From the approval of this Act, and even before the commencement of the expropriation herein provided, ejectment proceedings against any tenant or occupant of any landed estates or haciendas or lands herein authorized to be expropriated, shall be suspended for a period of two years, upon motion of the defendant, if he pays his current rentals,. and such suspension shall continue upon the filing of expropriation proceedings until the final determination of the latter: Provided, however, That if any tenant or occupant is in arrears in the payment of rentals or any amounts due in favor of the owners of said landed estates or haciendas or lands, the amount legally due shall be liquidated and shall be payable in eighteen equal monthly installments from the time of liquidation, but this payment of rentals in arrears shall not be a condition precedent to the suspension of ejectment proceedings: Provided, further, That the rentals being collected from the tenants of the landed estates or haciendas or lands herein authorized to be expropriated, shall not be increased above the amounts of rentals being charged us of December thirty-one, nineteen hundred and fifty-three, except in cases where there are existing rental contracts for a period which expired on said date, in which case the court shall fix a reasonable rental not exceeding eight per centum of the assessed value on December thirty-one, nineteen hundred and fifty-three, but, in any case, if after said date there has been an increased in assessment, the rental may also be increased by the corresponding amount of actual increase in the land tax: Provided, furthermore, That no lot or portion thereof actually occupied by a tenant or occupant shall be sold by the landowner to any other person than such tenant or occupant, unless the latter renounces in a public instrument his rights under this Act: Provided, finally, That if there shall be tenants who have constructed bona fide improvements on the lots leased by them, the rights of these tenants should be recognized in the sale or in the lease of the lots, the limitation as to area in section three notwithstanding." (Italics supplied.)

The order suspending the action was based on a motion presented by respondents herein, dated November 14, 1957, attaching thereto a complaint filed in the Court of First Instance of Manila for the expropriation of properties of petitioner and Antonio Prieto filed in said court around August 7, 1957, Civil Case No. 33385, entitled "Republic of the Philippines (by Land Tenure Administration) vs. Antonio Prieto & Mauro Prieto (see Annex Exh. "GG," Annex "1").

The respondents claim that there has been no abuse of discretion on the part of the judge below and that, in any case, petitioner could have availed himself of an action to collect the arrears in rent. There is no doubt in the mind of this Court that in suspending the action, the judge below ignored the express provision of Section 5 of Republic Act No. 1162, as amended by Republic Act No. 1599, above-quoted, which directs the liquidation of the arrears in rents and the payment of the liquidated amount in eighteen equal monthly installments. The order of the court denied the right of petitioner to be paid immediately the rentals in arrears, which right is expressly recognized in the law. Such denial amounts to a refusal to grant petitioner a property right and constitutes a clear abuse of discretion, subject to review by certiorari and mandamus. The remedy suggested by respondents, i. e., the filing of

an ordinary action, would neither be speedy nor adequate, taking into account that judicial proceedings can be unduly delayed by parties by taking advantage of postponements of proceedings and of costly appeals.

For the foregoing considerations, the orders sought to be annulled are hereby set aside and the case is remanded to the court below for action or proceedings in accordance with Section 5 of Republic Act No. 1599. Costs against the respondents Luis Alcantara and Aurora Alcantara.

So ordered.

Bengzon, Padilla, Montemayor, Bautista Angelo, Reyes J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

Paras, C.J., reserves vote.

CONCEPCION, J., concurring in part and dissenting in part:

I concur in the view that the respondent Judge erred in not requiring respondents, Luis Alcantara and Aurora Alcantara, to pay, in conformity with the provisions of Section 5 of Republic Act No. 1599, the amounts due to the owners of the land in question. However, I am constrained to dissent from the majority decision, insofar as it sets aside fully the Orders of November 27, 1957 and January 23, 1958, suspending the action for unlawful detainer, inasmuch as said section 5 explicitly provides that the "payment of rentals in arrears shall not be a condition precedent to the suspension of ejectment proceedings."

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