

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CIRILO P. BAYLOSIS, ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 13582. September 30, 1960*

Ponente: REYES, J. B. L., J.

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This case is an offshoot of our decision in G. R. No. L-6191, Republic of the Philippines vs. Cirilo P. Baylosis, et al., promulgated January 31, 1955 (96 Phil., 461; 51 Off. Gaz., No. 2, 722), sustaining the motions to dismiss of appellants and ordering the dismissal of the expropriation proceedings filed by the Republic of the Philippines in the Court of First Instance of Batangas (C. C. No. 84) to expropriate seven lots formerly constituting part of the Lian Estate (Hacienda Lian) in the municipality of Lian, Batangas.

It appears that after the records were returned by this Court to the Court a quo, the plaintiff Republic of the Philippines filed on June 30, 1955 a motion to withdraw its preliminary deposit of P27,105.22 made pursuant to section 3, Rule 69 of the Rules of Court, and by virtue of which it was placed in the possession of the parcels in question, on the ground that whatever claims for damages the defendants might have, had already become barred by the finality of our decision in G. R. No. L-6191, which made no pronouncement on nor contained a reservation of defendants' right to claim damages. Defendants opposed the motion, claiming that their losses and damages resulting from the transfer of the possession of their lands to plaintiff and which they alleged in their motions to dismiss had not yet been determined by the trial court. Notwithstanding the opposition, the court below, on July 25, 1955, ordered the return of the aforesaid deposit to plaintiff, for the reason that "the defendants have not taken any step towards the recovery of such damages," nor "is there any assurance that they would do so in the immediate future, on the assumption that their right to pursue such claim for damages is not yet barred by laches". Defendants accordingly moved for the reconsideration of such order, and before their motion for reconsideration was resolved, also moved that their counterclaims for damages be set for hearing. Both motions were denied by the court; whereupon, defendants interposed the present appeal to this Court.

We find merit in the appeal.

Firstly, appellants are right in claiming that the lower court should not have authorized the withdrawal of plaintiff's preliminary deposit before their right to recover the damages allegedly suffered by them by reason of the filing of the expropriation suit is finally determined and adjudicated. For as we said in *Visayan Refining Co. vs. Camus*, 40 Phil., 562, said deposit protects the defendant "from any danger of loss resulting from the temporary occupation of the land by the Government, for it is obvious that this preliminary deposit serves the double purpose of a prepayment upon the value of the property, if finally expropriated, and as an indemnity against damage in the eventuality that the proceedings should fail of consummation." To return this deposit to plaintiff now would, therefore, be depriving defendants of this legal safeguard for the payment of their damages in case they are finally held to have the right to collect said damages in these same proceedings.

The decisive question in this appeal, therefore, is whether or not appellants can still prove and recover their

damages in this same action. Appellee and the lower court entertain the view that appellants are now barred from claiming any damages in this case, because our decision in G. R. No. L-6191 made no reservation of their right to do so, and said decision is now *res judicata*. Appellants, upon the other hand, maintain that the only issue involved in that appeal was plaintiff's right to expropriate their lands, and as their right to damages was not brought up and litigated therein, the decision of this Court in said appeal can not be *res judicata* as to such matter. Again we find appellant's position on this matter the more tenable.

The records show that all of appellants' motions to dismiss contained counterclaims for damages supposedly suffered by them as a result of the filing of the expropriation proceedings. When the motions to dismiss were called for trial, however, the hearing was confined to the issue of plaintiff's right to expropriate, and evidence was accordingly adduced by the parties on this question alone (see Decision of the court below, R. A., pp. 162-163). In fact, defendants at this hearing started to prove their damages, but they were prevented from doing so by the lower Court, saying that such matter "will be for the commissioners" (t.s.n. of Feb. 18, 1952, p. 293); and for that reason, defendants, through counsel, repeatedly manifested that they were reserving their right to present evidence on their damages (t.s.n., *ibid*, pp. 293, 297, 298), and the reservation was approved by the Court (*ibid*, p. 298). Unfortunately for defendants, the trial court upheld plaintiff's right to expropriate; and from this finding exclusively, they appealed to this Court in G. R. No. L-6191.

In view of the antecedents, it can not be said that appellants are now barred from proving their alleged damages in this case simply because their right to do so had not been reserved in our decision in G. R. No. L-6191. The reservation had already been made in the court below and duly approved therein; the reservation was not questioned by the Government, and it did not appeal therefrom. As there was already that reservation, it was needless for appellants to raise such matter on appeal or ask for a reservation of their right to prove damages in our decision in G. R. No. L-6191. In a similar case wherein defendants agreed to the appointment of commissioners and presented evidence before them, upon the understanding that said hearing was without prejudice to discussing later the question relative to the right of plaintiff to expropriate, we held that the reservation was "very expressive in the sense that in the mind of the court, defendants never had the intention of waiving that defense as otherwise it would have not stated in its order such reservation. Such reservation negatives the idea of waiver." (*Republic vs. Gabriel*, G. R. No. L-6161, May 28, 1954.) The reservation made by appellants and approved by the court in this case can not be any less effective than the reservation in the *Gabriel* case.

Plaintiff-appellee cites two cases to support its contention that the absence of a reservation of appellants' right to recover damages in our decision in G. R. No. L-6191 forecloses such right, but the cases cited are inapplicable to this case because of the substantial differences in the facts and issues in said cases and the present one. In the first place, both cases cited involved, not motions to dismiss filed by defendants wherein they expressly included counterclaims for damages as in this case, but motions to dismiss at the instance of plaintiff, the very party that filed the expropriation proceedings. In the first case, *Metropolitan Water District vs. De los Angeles*, 55 Phil., 776, plaintiff's motion to dismiss was even filed after the lower court had already decided the case in its favor, and an appeal already taken by both parties on the question of just compensation. In view of the motion to dismiss filed by plaintiff on appeal, the only question presented for decision was whether or not plaintiff should be allowed to dismiss the proceedings at that stage, since defendants had already suffered great damages by reason of their dispossession and incurred into great expenses by reason of the long and protracted litigation. In sustaining plaintiff's right to dismiss, we had, of necessity and in justice to defendants, to reserve to them the right to recover their damages either in the same or in another action. While in the case of *City of Manila vs. J. C. Ruymann*, 37 Phil., 421, the lower court sustained plaintiff's motion to dismiss the expropriation proceedings, reserving to defendants their right to prove damages in another action, so that defendants appealed, urging that they should be

allowed to recover their damages in the same proceedings since they had claimed damages in their motions to dismiss. As the precise question presented to us in the appeal was defendants' right to claim and recover damages in the same proceedings, it was necessary for us to declare in our decision that they had said right. These cases can not be invoked in the case at bar, not only because the only question presented in G. R. No. L-6191 was whether or not plaintiff was entitled to expropriate defendants' properties, but also because, as already stated, the right of defendants to prove, in the same proceedings the damages alleged in their motions to dismiss had already been reserved to them by the trial court.

The remaining question involves the denial by the court below of appellants' motion to set for hearing their counter-claims for damages, for the reason given that "the motion of the defendants to set for hearing their counterclaim for damages would in effect be to reopen a case decided by the Supreme Court unconditionally and with finality" (R. A., p. 208). This order will also have to be reversed, in view of what we have already said upholding appellants' right to prove and recover their damages in these same proceedings. As for appellee's contention that appellants are guilty of laches in the prosecution of their claims for damages, we do not think the delay of four months in their asking for the trial of their counterclaims (see Appellee's Brief, p. 8) is such unreasonable length of time as would justify us to dismiss said claims on the ground of laches or non-suit. Anyway, no prejudice could have been caused plaintiff by this delay.

Wherefore, the order appealed from is reversed, and the records are remanded to the court a quo for trial on appellants' counterclaims for damages and other reliefs contained in their motions to dismiss. Costs against plaintiff-appellee.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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