# VICENTE RELLOSA, CYNTHIA ORTEGA ASSISTED BY HUSBAND ROBERTO ORTEGA, PETITIONER, VS. GONZALO PELLOSIS, INESITA MOSTE, AND DANILO RADAM, RESPONDENTS.

*G.R. No. 138964. August 09, 2001*

Ponente: VITUG, J.

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**VITUG, J.:**

"Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."[1] This provision in our law is not just a declaration of principle for it can in itself constitute, when unduly ignored or violated, a valid source of a cause of action or defense.

The case seeks to reverse the Court of Appeals in not countenancing an attempt to abridge and render inutile a legal right to contest an adverse ruling of an agency of government.

Respondents were lessees of a parcel of land, owned by one Marta Reyes, located at San Pascual Street, Malate, Manila. Respondents had built their houses on the land which, over the years, underwent continuous improvements. After the demise of Marta, the land was inherited by her son Victor Reyes. Sometime in 1986, Victor informed respondents that, for being lessees of the land for more than twenty (20) years, they would have a right of first refusal to buy the land. Sometime in the early part of 1989, without the knowledge of respondents, the land occupied by them was sold to petitioner Cynthia Ortega who was able to ultimately secure title to the property in her name.

On 25 May 1989, Cynthia Ortega, filed a petition for condemnation, docketed Condemnation Case No. 89-05-007, with the Office of the Building Official, City of Manila, of the structures on the land.

On 31 May 1989, respondents filed with the Regional Trial Court of Manila a suit for the "Declaration of Nullity of the Sale," docketed as Civil Case No. 89-49176, made in favor of petitioner Cynthia Ortega predicated upon their right of first refusal which was claimed to have been impinged upon the sale of the land to petitioner Ortega without their knowledge.

After due hearing in the condemnation case, the Office of the Building Official issued a resolution, dated 27 November 1989, ordering the demolition of the houses of respondents. Copies of the resolution were served upon respondents and their counsel on 07 December 1989. The following day, or on 08 December 1989, Cynthia Ortega, together with her father and co-petitioner, Vicente Rellosa, hired workers to commence the demolition of respondents' houses. Due to the timely intervention of a mobile unit of the Western Police District, the intended demolition did not take place following talks between petitioner Rellosa and counsel who pleaded that the demolition be suspended since the order sought to be implemented was not yet final and executory. On 11 December 1989, respondents filed their appeal contesting the order of the Office of the Building Official. On 12 December 1989, petitioners once again hired workers and proceeded with the demolition of respondents' houses.

Resultantly, respondents filed Civil Case No. 89-49176 before the Regional Trial Court of Manila, Branch 54, praying that petitioners be ordered to pay moral and exemplary damages, as well as attorney's fees, for the untimely demolition of the houses. After trial, the court dismissed the complaint of respondents and instead ordered them to pay petitioners moral damages. On appeal, the Court of Appeals, on the basis of its findings and conclusions, reversed the decision of the trial court and ordered petitioners to pay respondents the following sums:

> "1) Seventy Five Thousand Pesos (P75,000.00) , or Twenty Five Thousand Pesos (P25,000.00) for each appellant, by way of moral damages;"
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> "2) Seventy Five Thousand Pesos (P75,000.00), or Twenty Five thousand Pesos (P25,000.00) for each appellant, by way of exemplary damages;"
>
> "3) Fifteen Thousand Pesos (P15,000.00) as and for attorney's fees; and
>
> "4) The costs of suit."[2]

The appellate court ruled:

> "Thus, by the clear provisions of paragraph 23 of the Implementing Rules and Regulations of PD 1096 (otherwise known as the Building Code), above, appellants, being the parties adversely affected by the November 27, 1989 Resolution of the Office of the Building Official, had fifteen (15) days from receipt of a copy of the same within which to perfect an administrative appeal. Thus, since appellants received a copy of the Resolution on December 7, 1989, they had until December 22, 1989 within which to perfect an administrative appeal and until such time, the said Resolution was not yet final and executory."
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> "It cannot be denied, therefore, that when appellees commenced to demolish appellants' houses as early as December 8, 1989 and eventually on December 12, 1989, neither the Resolution of the Building Official nor the Demolition Order itself were final and executory."[3]

Petitioners filed the instant petition contending that the appellate court gravely erred in ruling that the premature demolition of respondents' houses entitled them to the award of damages. Petitioners pointed out that the order of the Office of the Building Official was eventually upheld on appeal by the Department of Public Works and Highways in its decision of 14 March 1990. Furthermore, petitioners added, the structures subject matter of the demolition order were declared to be dangerous structures by the Office of the Building Official and, as such, could be abated to avoid danger to the public.

The Court rules for affirmance of the assailed decision.

A right is a power, privilege, or immunity guaranteed under a constitution, statute or decisional law, or recognized as a result of long usage,[4] constitutive of a legally enforceable claim of one person against another.

Petitioner might verily be the owner of the land, with the right to enjoy[5] and to exclude any person from the enjoyment and disposal thereof,[6] but the exercise of these rights is not without limitations. The abuse of rights rule established in Article 19 of the Civil Code requires every person to act with justice, to give everyone his due; and to observe honesty and good faith.[7] When a right is exercised in a manner which discards these norms resulting in damage to another, a legal wrong is committed for which the actor can be held accountable. In this instance, the issue is not so much about the existence of the right or validity of the order of demolition as the question of whether or not petitioners have acted in conformity with, and not in disregard of, the standard set by Article 19 of the Civil Code.

At the time petitioners implemented the order of demolition, barely five days after respondents received a copy


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thereof, the same was not yet final and executory. The law provided for a fifteen-day appeal period in favor of a party aggrieved by an adverse ruling of the Office of the Building Official but by the precipitate action of petitioners in demolishing the houses of respondents (prior to the expiration of the period to appeal), the latter were effectively deprived of this recourse. The fact that the order of demolition was later affirmed by the Department of Public Works and Highways was of no moment. The action of petitioners up to the point where they were able to secure an order of demolition was not condemnable but implementing the order unmindful of the right of respondents to contest the ruling was a different matter and could only be held utterly indefensible.

The Court, however, finds the award of P75,000.00 exemplary damages and another of P75,000.00 moral damages for each respondent to be rather excessive given the circumstances; the awards must be reduced to the reasonable amounts of P20,000.00 exemplary damages and P20,000.00 moral damages.

WHEREFORE, the assailed decision of the Court of Appeals is MODIFIED by reducing the awards of P75,000.00 exemplary damages and of P75,000.00 moral damages to each respondent reduced to P20,000.00 exemplary damages and P20,000.00 moral damages for each respondent. In all other respects, the decision of the appellate court is AFFIRMED. No costs.

**SO ORDERED.**

Melo, (Chairman), Panganiban, and Gonzaga-Reyes, JJ., concur.
Sandoval-Gutierrez, J., on leave.

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[1] Art. 19, Civil Code.

[2] Rollo, p. 126.

[3] Rollo, pp. 123-124.

[4] Black's Law Dictionary, 6th Ed., p. 1324.

[5] Art. 428, New Civil Code.

[6] Art. 429, New Civil Code.

[7] Albenson Enterprises Corporation vs. Court of Appeals, 217 SCRA 16.


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