

CARMEN A. BLAS, PETITIONER, VS. SPOUSES EDUARDO AND SALUD GALAPON, RESPONDENTS.

G.R. No. 159710. September 30, 2009

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

By petition for review on certiorari, the petitioner appeals the April 30, 2002 decision and the September 1, 2003 resolution of the Court of Appeals (CA) in C.A.-G.R. SP No. 49535, affirming the decision of the Office of the President (OP) that awarded in equal shares to the petitioner and the respondents the 50-square meter lot on which ZIP Tag Structure No. 86-313 stood.

Antecedents

In pursuit of the urban land reform program of the Government under Presidential Decree No. 1517,[1] Proclamation No. 1893,[2] and National Housing Authority (NHA) Circular No. 13,[3] the NHA conducted in 1987 the Zonal Improvement Program (ZIP) census and tagging of structures as pre-qualifying requisites for determining the potential lot beneficiaries in the Peñafrancia ZIP zone in Paco, Manila. In the census, the petitioner was determined to be an absentee structure owner of the dwelling unit tagged as Structure No. 86-313,[4] while respondent Eduardo Galapon and three others, namely Carlos Menodiado, Martin Nobleza and Buenaventura A. Zapanta, were censused to be the renters of the petitioner in the structure. The petitioner, then a 78-year old widow living in her son's dwelling unit tagged as Structure No. 86-305, had been renting Structure No. 86-313 out as a source of income.

NHA Circular No. 13 disqualified any absentee or uncensused structure owner from owning a lot within a ZIP zone. Alarmed that she might be disqualified to own the 50-square meter lot located at Lot 12, Block 2, Peñafrancia ZIP zone where Structure No. 86-313 stood, the petitioner filed a petition for change of status from absentee structure owner to residing structure owner with the Awards and Arbitration Committee (AAC) of NHA.

The Ruling of the NHA

The AAC recommended the approval of the petitioner's petition for change of status.

Aggrieved, respondent Spouses Eduardo and Salud Galapon appealed the recommendation of the AAC. The NHA gave due course to the appeal and ultimately awarded the 50-square meter lot to them on January 30, 1996,[5] stating:

Records show the following:

- During the 1987 census survey of the project, you were censused as absentee owner of the structure with Tag No. 86-313 while Eduardo Galapon, Jr., Carlos Menodiado, Martin Nobleza and Buenaventura A. Zapanta were censused as your renters.

- Although you have not left the project prior to, during and after the 1987 census survey, you were not found to be residing at the structure with Tag No. 86-313, allegedly owned by your daughter, Fe Blas.
- Your daughter Fe Blas, is forty (40) years old, single and physically disabled making her dependent on you for physical and financial support.
- Despite the foregoing facts, the Awards and Arbitration Committee recommended the approval of your request for change of status and the award in your favor of 50.0 sq. m. portion, more or less of Lot 12 Block 2.
- On September 1, 1995, the District Manager, in an answer to our query, informed our Legal Department of the following:
 - The Civil Status of Fe Blas, 40 years old, is single.
 - Mrs (sic) Carmen Blas do not have any personal belongings nor does she maintain her own room in the contested structure. She is renting out the subject structure to renters, Carlos Menodiado, Eduardo Galapon Jr., Martin Nobleza and Buenaventura Zapanta at the time of the census to augment her income for old age and medicine."
 - The census masterlist provided by the project office indicates that you were censused as absentee owner of the structure with Tag No. 86-313 with remarks which is owned by your son, Rodrigo Blas. He is also an absentee structure owner.

The abode date contradicts findings of the AAC that you lived with your daughter, Fe Blas in the structure with Tag No. 86-274.

- You maintain the structure with Tag No. 83-313 not as your residence but for purely commercial purposes by renting it out.

In view of all the foregoing, your petition for change of census status from absentee structure owner to residing structure owner and the award of 50.0 sq. m. portion, more or less, of Lot 12 Blk. 2 is hereby DENIED.

The petitioner elevated for review the NHA decision to the OP, which docketed her appeal as OP Case No. 96-E-6455.

In the meantime, the petitioner filed an ejectment action against the respondents on October 18, 1996. She obtained a favorable judgment. After she was issued a writ of execution, the respondents voluntarily vacated the structure on November 17, 1996.

Ruling of the OP

On October 13, 1997, the OP found the petitioner and the respondents to be the long-standing bona fide qualified applicants and awarded the disputed lot and the structure to both of them in equal shares,[6] viz:

WHEREFORE, premises considered, the appealed letter-decision of the NHA General Manager Mariano Pineda, dated January 30, 1996 is hereby SET ASIDE, and another one entered, dividing the area into two equal parts as much as possible, and allocating the same to appellant and appellees in the manner indicated in the body of this decision.

SO ORDERED.

Both parties sought reconsideration of the OP decision. The petitioner's motion was not acted upon by the OP while that of the respondents was denied for being filed out of time.

On August 13, 1998, the respondents, through their representative, Prospero M. de la Torre, wrote a letter seeking

reconsideration to then Chief Presidential Legal Counsel Harriet O. Demetriou. In response, the OP issued a resolution dated October 15, 1998 denying the request.[7]

Ruling of the CA

The petitioner filed a petition for review in the CA, assailing the October 13, 1997 decision and the October 15, 1998 resolution of the OP. She prayed that the disputed lot and structure be awarded to her solely considering that the respondents had already vacated the structure even prior to the promulgation of the OP decision.

On April 30, 2002, the CA denied the petition for review for lack of merit,[8] holding:

The fact that she rented out her tagged structure proved that she did not live in that dwelling unit, hence, she remained under the law an absentee owner who was disqualified outright. If at all the Office of the President awarded her one-half of the disputed lot, it was out of pure beneficence of this Office and not because she had that right under the law.

Moreover Blas did not allege in the petition nor prove that the Office of the President committed grave abuse of discretion, fraud or error in law in dividing the disputed lot between her and the Galapons. While she assigned as an error on the part of the Office of the President in having the said lot divided, it was only upon the ground that the Galapons have already ceased to be renters after they were ejected by the court. This nevertheless does not constitute an error for the fact remains that the Galapons were the occupants at the time of the census, and not Blas. Administrative decisions on matters within the executive jurisdiction can only be set aside on proof of grave abuse of discretion, fraud, or error of law (*Itogon-Suyoc Mines, Inc. vs. Office of the President*, 270 SCRA 63; *Zabat vs. CA*, 338 SCRA 551). Absent these badges of executive excesses, this petition must fail.

The Office of the President in awarding the disputed lot to both in equal shares, did so because it was censused that the Galapons were renters of the Tagged Structure owned by Blas. As such the Galapons similarly were potential ZIP Beneficiaries who enjoyed the right of preemption and security of tenure as defined in the NHA Implementing guidelines. The fact that they were ejected in a case before Branch 25, Metropolitan Trial Court of Manila, did not render them automatically disqualified from being awardees of the ZIP project. Under the Implementing Guidelines (VIII. Ejectment, par. 1, p. 111, rollo) an ejected censused renter may only lose his status as a potential ZIP beneficiary if he does not inform the NHA or the local government unit of his address. There is nothing said and proved in the petition that spouses Galapon failed to up-date NHA of their address.[9]

The CA also denied the petitioner's motion for reconsideration on September 1, 2003.

Issues

The petitioner now seeks the review and reversal of the decision of the CA upon the following issues:

- (1) Whether or not the petitioner was an absentee structure owner; and
- (2) Whether or not the respondents were disqualified to be awardees of Lot 12, Block 2, Peñafrancia ZIP Project.

Ruling of the Court

The petition lacks merit.

I

Petitioner Was an Absentee Structure Owner

The ZIP is designed to upgrade the legal, environmental, social and economic conditions of slum residents within

Metro Manila, in line with the spirit of the constitutional provision guaranteeing housing and a decent quality of life for every Filipino. The ownership of land by the landless is the primary objective of the ZIP.[10]

The Code of Policies embodied in NHA Circular No. 13 governed the implementation of the ZIP as to the classification and treatment of existing structures, the selection and qualification of intended beneficiaries, the disposition and award of fully developed lots in all ZIP zones within Metro Manila, and other related activities.[11]

Paragraph V of the Code of Policies laid down the rules on beneficiary selection and lot allocation,[12] to wit:

V. BENEFICIARY SELECTION AND LOT ALLOCATION

- The official Zip census and tagging shall be the primary basis for determining potential program beneficiaries and structures or dwelling units in the project area.
- Issuance of Zip tag number in no way constitutes a guarantee for Zip lot allocation.
- Absentee censused households and all uncensused households are automatically disqualified from lot allocation.
- Only those household included in the ZIP census and who, in addition, qualify under the provisions of the Code of Policies, are the beneficiaries of the Zonal Improvement Program.
- A qualified censused-household is entitled to only one residential lot within the ZIP project areas of Metro Manila.
- Documentation supporting lot allocation shall be made in the name of the qualified household head.
- An Awards and Arbitration (AAC) shall be set up in each ZIP project area to be composed of representative each from the Authority, the local government, the barangay and the community. The AAC shall determine lot allocation amongst qualified beneficiaries, arbitrate in matters of claims and disputes, and safeguard the rights of all residents in ZIP project areas by any legal means it may consider appropriate. All decisions of the AAC shall be subject to review and approval of the General Manager of the Authority, the local Mayors, and finally the Governor of the Metropolitan Manila Commission.[13]

The declaration of policy in the Code of Policies stated that an absentee or uncensused structure owner was disqualified from owning a lot within the ZIP zones.[14]

A careful perusal of the Code of Policies shows the following persons to be automatically disqualified, namely:

- (1) Absentee censused household - censused household that vacates a duly tagged structure or dwelling unit and leaves the project area for a continuous period for at least six months without written notice to the NHA and the local government unit;[15]
- (2) Uncensused household - household that is not registered in the official ZIP census;[16]
- (3) Absentee structure owner - any individual who owns a structure or dwelling unit in a ZIP project area and who has not occupied it prior to the official closure of the Census;[17] and
- (4) Uncensused structure owner - any person who owns a structure or dwelling unit not registered in the official ZIP census.[18]

The CA categorically declared the petitioner as an absentee structure owner disqualified to the award of the disputed lot. On the other hand, the petitioner insists that she was not an absentee structure owner because she never abandoned nor relinquished her right over Structure No. 86-313. According to her, she occupied the disputed lot since 1938 although she was not living thereat during the time of the official ZIP census.

We agree with the CA.

The following requisites must concur for one to be considered an absentee structure owner: one, the person must own a structure or dwelling unit within the ZIP zone; and two, the person has not occupied the structure or dwelling unit prior to the official closure of the census.

The petitioner did not meet the second requisite because it was the respondents, not her, who were living in or occupying Structure No. 86-313 at the time of the official ZIP census and until they vacated the premises on November 17, 1996.

In the award of the ZIP lot allocation, the primary bases for determining the potential program beneficiaries and structures or dwelling units in the project area were the official ZIP census and tagging conducted in 1987. It was, therefore, the primordial requisite that the intended beneficiary must be the occupant of the tagged structure at the time of the official ZIP census or at the closure thereof. Otherwise, the person was considered an absentee structure owner for being absent from his usual residence or domicile. At any rate, the Code of Policies made it clear that the issuance of a ZIP tag number to a structure did not guarantee ZIP lot allocation to the owner of the tagged structure.[19] Such interpretation of the Code of Policies was in harmony with the objectives and principles underlying the program to provide adequate shelter and place of abode to the legally qualified beneficiaries. That the petitioner was the person who built Structure No. 86-313 did not necessarily mean that the lot on which the structure stood would be automatically awarded to her. Like any other beneficiary, she must first comply with the requirements imposed by the Government before being deemed entitled to the lot allocation. Unfortunately, she was not using Structure No. 86-313 as a dwelling or living quarters, but as a source of income, which only signified that she was not a homeless person whom the ZIP intended to benefit. To consider her a homelot beneficiary would be contrary to the spirit of the Code of Policies and would defeat the very object of the ZIP.

II

Respondents are not disqualified to be awardees
of Lot 12, Block 2, Peñafrancia ZIP Project

The petitioner claims that the respondents were disqualified to become homelot beneficiaries because they had been evicted by virtue of the judgment rendered in the ejectment case she had filed against them; and that when they vacated Structure No. 86-313, they did not inform the NHA of their present address, an omission that violated Paragraph III of the Code of Policies, which reads:

III. EJECTMENT

- A censused renter or censused rent-free occupant who has been ejected should inform the Authority and the local government of his address in order that he may not lose his status as a potential ZIP beneficiary.
- A qualified censused structure owner who succeeds in ejecting his renter or rent-free occupant or legal grounds, may be allowed to transfer to his structure or dwelling unit, with the prior written clearance of the Authority or its duly authorized representative, as certified by the local government.[20]

We are not persuaded by the petitioner's claims.

It is undisputed that the respondents were the censused renters or occupants of Structure No. 86-313. Such status could not automatically be changed by their judicial ejectment at the petitioner's instance, considering that their right to become lot beneficiaries of the ZIP was consistently recognized by the AAC, the NHA, the OP and the CA. The discretion to determine who were the qualified homelot beneficiaries belonged to the AAC, subject to the review and approval of the NHA General Manager.[21] The NHA ruling on the issue was conclusive and

binding in the absence of any clear showing of any grave abuse of discretion on the part of such administrative office directly tasked to execute, implement and administer the ZIP. That such ruling was even upheld by the OP and then the CA strengthened even more the presumption of correctness in its favor.

The petitioner cannot rely on the judgment rendered in the ejectment case to buttress her claim of the ownership of the structure. Neither was that judgment a valid basis for asserting a better right to the lot on which the structure stood. In ejectment cases, the only issue is the physical and material possession of the property involved, the resolution being independent of any claim of ownership made by any of the litigants. The question of ownership is, at best, merely provisionally decided, but only for the sole purpose of determining which party has the better right to the physical possession of the property.[22] Indeed, the judgment in the ejectment case could only determine who between the petitioner and the respondents had a better right to possess Structure No. 86-313. It did not, as it could not, decide that the petitioner was entitled to the award of the lot, or that the respondents could not be considered as qualified beneficiaries of the ZIP.

We further affirm the ruling of the CA to the effect that the petitioner did not substantiate her claim that the respondents had failed to inform the NHA of their present address; and that contrary to the Code of Policies, she did not allege that she now lived in her structure following her eviction of the respondents with prior written clearance from the NHA or its duly authorized representative, as verified by the City Government of Manila.

The respondents, being qualified homelot beneficiaries of Lot 12, Block 2, enjoyed the right of pre-emption vis-à-vis Structure No. 86-313, which was a right granted to them as the censused renters of the structure to have the first option to acquire or to purchase the structure.[23]

WHEREFORE, we deny the petition for review on certiorari for lack of merit.

The April 30, 2002 decision and the September 1, 2003 resolution in C.A.-G.R. SP No. 49535 are modified, awarding the 50-square meter portion of Lot 12, Block 2 of the Peñafrancia ZIP Project on which Structure No. 86-313 stood exclusively to the respondents.

Costs of suit to be paid by the petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Chico-Nazario,[*] and Leonardo-De Castro, JJ., concur.

[*] Additional Member in lieu of Carpio, J., per Special Order No. 698.

[1] Proclaiming Urban Land Reform in the Philippines and Providing for the Implementing Machinery Thereof.

[2] Declaring the Entire Metropolitan Area as Urban Land Reform Zone.

[3] Code of Policies on Beneficiary Selection and Disposition of Homelots and Structures in Urban Bliss Level 1 Projects; CA Rollo, pp. 103-113.

[4] Code of Policies, Paragraph IV.

[5] CA Rollo, pp. 40-41.

[6] Id., pp. 65-68.

[7] Id., p. 14.

[8] Rollo, pp. 35-43.

[9] Id., pp. 41-42.

[10] Supra, footnote no. 5, Paragraph III (1 & 4).

[11] Id., Paragraph II.

[12] CA Rollo, p. 107.

[13] Presently, an appeal of the NHA decision is made to the Office of the President pursuant to Executive Order No. 19, dated April 2, 1960, as amended by Administrative Order No. 18, Series of 1987.

[14] Supra, footnote no. 5, Paragraph III (5).

[15] Id., Paragraph IV (7).

[16] Id., the term was defined in relation to Paragraph IV (6) CENSUSED HOUSEHOLD - A household registered in the official ZIP Census.

[17] Id., Paragraph IV (9).

[18] Id., the term was defined in relation to Paragraph IV (8) STRUCTURE OWNER - Any person or persons who own a structure or dwelling unit.

[19] Supra, footnote no. 5, Paragraph V (2).

[20] CA Rollo, p. 111.

[21] Supra, footnote no. 5, Paragraph V (7).

[22] Keppel Bank Philippines, Inc. v. Adao, G.R. No. 158227, October 19, 2005, 473 SCRA 372.

[23] Supra, footnote no. 5, Paragraph IV (13).

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