

ISABEL G. CABUNGCAL, ASSISTED BY HER HUSBAND JUAN CABUNGCAL, AND SOCORRO DE PAEZ, ASSISTED BY HER HUSBAND EMILIANO PAEZ, PETITIONERS AND APPELLANT VS. TEOFISTO M. CORDOVA, AS MA...

G.R. No. 16934. July 31, 1964

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-16934/>

PADILLA, J.:

This is an action to annul an award and deed of sale made and executed by the respondent Mayor of Bacolod City in favor of his co-respondent, Daisy B. Gustilo, of a lot owned by the City, on the ground that the award and deed contravene the provisions of the ordinance authorizing the sale thereof and the manner the sale was to be carried out, and to recover damages. Motions to dismiss filed by the respondents and a motion for reconsideration were all denied, lit their answers the respondents denied the alleged contravention of the ordinance and the answer of respondent Daisy 15. Gustilo set up a counterclaim for damages. The reply of the petitioners to the counterclaim for damages is a denial thereof.

The parties submitted the following agreed statement of facts:

- That Lot No. 379-B—40, Bacolod Cadastre, containing an area of 289 square meters, is a portion of Lot No. 379-B, a patrimonial property of the City of Bacolod, awarded and Bold to respondent Gustilo by the City Mayor as hereinafter stated:

- That respondent am! petitioners filed mimeographed application forms issued by the City of Bacolod for the purchase of said lot on the following dates:

a) Daisy B. Guslilo on

June 3, 1958

b) Isabel Cabungcal

on June 4, 1959 (1958)

c) Socorro Paez

on June 9, 1958;

true copies of said application forms are hereto attached as Annex "A", "B", and "C", respectively, and made integral parts hereof;

- That on August 1, VM8, petitioners Isabel Cabungcal and Socorro Puez, wrote a letter to the City Council of Bacolod, praying that they be adjudicated the portions of the tot in question, which they were actually occupying, as evidenced by a true copy of their letter hereto attached as Annex "D" and made an integral part hereof;

- That petitioners Isabel Cabungcal and Socorro Paez, wrote a letter on September 23, 1958 to the Hon. Mayor of Bacolod, praying that they be permitted to occupy and to pay the portions of the lot in question which they were actually occupying as evidenced by a true copy of said letter hereto attached as Annex "E" and made an integral part hereof;
- That said lot was awarded to respondent Daisy B. Gustilo on November 10, 1958, as evidenced by a true copy of the award hereto attached as Annex "F" and made an integral part hereof;
- On November 11, 1958 respondent Mayor Cordova, in representation of the City of Bacolod, as per Deed of Sale, a true copy of which is hereto attached as Annex "G" and also made an integral part hereof, sold the said lot to respondent Gustilo for P8,670.00 who paid in cash for it;
- That after the award and sale (Annexes "F" and "G"). on November 21, 1958, petitioners wrote to the President of the Philippines praying that they be allowed to continue occupying the portion of Lot 379-B-40 which they were respectively occupying, and to pay for the value of the same, as evidenced by a true copy of said letter attached hereto as Annex "H" and made an integral part hereof;
- That the City of Bacolod was not included by the petitioner as a party to this case;
- That the lot in question is a side-lot and the same must be sold to only one person, under the provisions of Ordinance No. 13, Series of 1959.

The parties limco, having agreed upon the above facts, will limit in the introduction of their evidence and testimony on material matters not covered by the stipulation of facts.

In addition to this agreed statement of facts, oral and documentary evidence was presented.

Upon the statement of facts and evidence, the court rendered judgment, the dispositive part of which reads, as follows:

EN MERITOS DE TODO LO EXPUESTO, el Juzgado falla esta causa estimando favorablemente la solicitud de las recurrentes, y, consiguientemente, se dicta sentencia declarando nula y de ningun valor y efecto la adjudicacion del Lote No. 379-B-40 de la medicion catastral de Bacolod a favor de la recurrida Daisy B. Gustilo, y en su lugar se ordena al recurrido alcalde para que dentro de veinte (20) dias a contar desde la fecha en que fuere notificado de esta decision proceda a celebrar una rifa entre las reclamantes del referido lote, y para que, de acuerdo con su resultado, haga la correspondiente adjudicacion a favor de la reclamante que resultare favorecida por la rifa.

Las costas del juicio seran tasadas en contra de los recurridos.

From this judgment, the Mayor of the City of Bacolod and Daisy B. Gustilo appealed to the Court of Appeals on questions of law and fact, and the petitioners appealed to this Court on the claim for damages, which was denied by the trial court for insufficiency of evidence.

Daisy B. Gustilo claims that the trial court erred in—

*** denying respondent-appellant Gustilo's motion to dismiss, motion, for reconsideration of the order denying her motion to dismiss, and motion to dismiss the second amended petition;

*** deciding this case solely on the basis of the reasons stated in the award (Exhibit "A-G") and Section 3 of Ordinance No. 13 and in not taking into account the admission of the parties in their agreed statement of facts and the testimony of respondent Mayor concerning the material facts and circumstances surrounding the award and subsequent sale of Lot No. 379-B-40 to respondent Daisy B. Gustilo;

*** holding that respondent Mayor did not follow the provisions of Ordinance No. 13 in awarding without lottery Lot No. 379-B-40 to respondent Gustilo;

*** ordering the respondent Mayor to conduct a raffle to determine who among the parties shall be the sole awardee of Lot No. 379-B-40;

*** declaring the award (Exhibit "A-6") null and void;

*** not dismissing the present petition for mandamus.

The respondent Mayor of Bacolod City imputes two errors allegedly committed by the trial court to wit:

The lower court erred in holding that the 4th condition specified in subsection (c), Section 3, Ordinance No. 13, Series of 1959, is the only mandatory provision to be complied with by the respondent-appellant Teofisto M. Cordova, in making the award for Lot No. 379-B-40, and in not taking also into consideration the mandatory provision of condition No. 5 (last sentence) of same subsection (c), Section 3 of the aforesaid ordinance; and

The lower court erred in not considering the import of the conference between respondent-appellant Mayor Cordova and the contending parties herein on July 31, 1968, and of the letters sent by the petitioners-appellees to the City Council of Bacolod, the City Mayor and the President of the Philippines and in holding that the Mayor of the City of Bacolod, herein respondent-appellant, did not comply with the provisions of Section 3 of Ordinance No. 13, Series of 1959, when he awarded lot No. 379-B-40, without lottery, in favor of the respondent-appellant Daisy B. Gustilo.

The petitioners as appellants assign two errors claimed to have been committed by the trial court, as follows:

The lower court erred in deciding, for all practical purposes, that a public official who has been found to have failed in the compliance of (with) his ministerial duty, is not liable for damages; and

The lower court erred in declaring only the award to be null and void and in not declaring that the deed of sale also is null and void.

The Court of Appeals certified the record of the case to this Court for review and final determination pursuant to the provision of section 17 (5) of Republic Act No. 296, as amended by Republic Act No. 2613.

Section 3 of Ordinance No. 13, series of 1959, of Bacolod City provides—

Award.—In the award or sale of any and all of the above subdivision lots, the following rules, priority or preference shall be strictly observed:

(c) Except side-lots bordering Lacson and Burgos Streets, there shall be, at most, two awardees to a lot having 251 square meters, or more in area who shall divide the lot share and share alike; Provided, however, that should there be but two occupants as understood in subparagraph (b) hereinabove immediately preceding, they shall upon proper applications made in accordance with Section 7 hereof, be deemed and considered the awardees of that particular lot who shall divide the same share and share alike; Provided, further, that, should there be three or more occupants claiming preferences to one lot the two awardees to the same shall have to be determined by lottery among them; Provided, nevertheless, that, in cases where one of the three or more occupants actually occupied at least one-half of the lot, said occupant shall thereby be deemed and considered as one of the two awardees, the remaining half to be determined by lottery among the other occupants; Provided, finally, that, in no case shall there be more than one (1) awardee with respect to lots bordering Lacson and Burgos Streets and that, should there be more than one (1) claimant claiming preferences in and over a particular lot, the award to only one shall be determined by lottery. However, should one of the several occupants claiming preferences

occupy or possess at least two-third (2/3) of a particular lot bordering these streets, said occupant shall thereby, upon application duly made, be deemed and considered the awardee of the particular lot to the exclusion of all other occupants of the same. The award herein shall always be subject to the requirements contained, made and provided, in Article IV, Section 9, and Article V, Section 5, paragraph (c) of Ordinance No. 140, Series of 1957, otherwise known as the Zoning Ordinance of the City of Bacolod. (*Italics supplied*)

Under the above-quoted provisions, the petitioner contend that the lot could not be awarded without holding a raffle. On the other hand, the respondent City Mayor claims that he could award the lot without holding a lottery because the petitioners, in their letters to the City Council of Bacolod (Exhibit A-4) and interview or conference with the City Mayor of Bacolod (Exhibit A-5), reiterated the desire to buy only the parts of the lot actually occupied by their houses and did not ask for the holding of a lottery or raffle; and that he was empowered by section 6 of the ordinance to implement its provisions when the sale of the lot is not covered by the provision of the ordinance.

The only award that can be made without holding a raffle pursuant to the provisions of the ordinance quoted above is when one claimant occupied at least 2/3 of the lot, but as Daisy B. Gustilo's house occupies an area of 170 square meters of the lot containing a total area of 289 square meters, which is less than 2/3, she does not come under the provisions of the ordinance which would make her the awardee of the whole lot without the holding of a raffle. The requirements provided in Article IV, section 9, and article V, section 6, paragraph (c), of Ordinance No. 140, series of 1957, otherwise known as the Zoning Ordinance of the City of Bacolod, cannot be invoked by the Mayor and his co-respondent Daisy B. Gustilo; because such requirements are to be complied with after the award and sale of the lot shall have been made.

It does not appear that the City Mayor in making the award of the lot to his co-respondent acted in bad faith. An erroneous interpretation of the meaning of the provisions of an ordinance does not constitute nor does it amount to bad faith that would entitle an aggrieved party to an award for damages.

The judgment appealed from is affirmed, with costs against the respondents.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Regala and Makalintal, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.