

**RAYMUNDA S. DIGRAN, IN HER CAPACITY AS ADMINISTRATRIX OF
ESTATE OF DECEASED RUPERTA CABUCOS, PETITIONER, VS.
AUDITOR GENERAL, DEPUTY AUDITOR GENERAL, COMMISSIONER
OF PUBLIC HIGH...**

G.R. No. 21593. April 29, 1966

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-21593/>

BENGZON, J.P., J.:

On June 22, 1909, Ruperta Cabucos bought from, and fully paid to, the Government, Lot No. 638 of the Banilad Friar Lands Estate situated in Cebu City for which a formal deed of conveyance was executed in her favor on November 27, 1915 by the Friar Land Agency. On February 28, 1916, Transfer Certificate of Title No. RT-3918 (T-320) was issued to her. The Banilad Friar Lands Estate was among the friar lands acquired by the Government for resale to actual tenants or occupants pursuant to Act 1120 of the Philippine Commission.

Sometime in 1914 or 1915, without prior expropriation proceedings, the government constructed Mango Avenue, a municipal road,[1] passing through Lot No. 638. A claim for compensation was filed with the Municipality of Cebu but it was still unpaid when World War II broke out.

In 1927 Ruperta Cabucos subdivided Lot No. 638 into Lots Nos. 638-A, 638-B and 638-C. Lot No. 638-B is the portion of Lot No. 638 covered and traversed by Mango Avenue.

Ruperta Cabucos died in 1940. In 1951 her heirs subdivided Lot No. 638 into eight lots, namely, Lots Nos. 638-A-1, 638-A-2, 638-B, 638-C-1, 638-C-2, 638-C-3, 638-C-4, and 638-C-5, and apportioned them to themselves except Lot No. 638-B, the road lot, which remained in the name of her estate. Candido Samson, her son, became extrajudicial administrator of the estate. The extrajudicial partition and adjudication was submitted to the Court of First Instance of Cebu for approval, and on May 30, 1953 said court decreed the issuance of the corresponding certificates of title to the heirs but ordered the annotation on the certificate of title of Lot No. 638-B of the following: "* * * this lot shall not be closed nor disposed of to the prejudice of the using public as such highway, * * *"

On April 20, 1961 Candido Samson filed with the City Appraisal Committee of the City of Cebu a claim for the value of Lot No. 638-B as compensation therefor. He amended said claim on July 12, 1961. On August 15, 1961, he supplemented it with a demand for the payment of interests and attorney's fees. Thereupon, the City Appraisal Committee appraised the land at P15.00 per square meter or P13,245.00 for 883 square meters, the area traversed by the road. The claim was thereafter referred to the City Fiscal of Cebu who recommended payment thereof. However, the City Engineer, to whom said claim was later indorsed, recommended its denial. This recommendation was concurred in by the Cebu Division Engineer of the Bureau of Public Highways and, on the strength of said recommendation, the Commissioner of Public Highways denied the claim in question. A request for reconsideration was denied.

On July 9, 1962 the Commissioner of Public Highways transmitted the aforesaid claim to the Auditor General. The City Auditor of Cebu whose comment was requested by the Auditor General recommended its payment, but such recommendation notwithstanding, the Deputy Auditor General, on February 18, 1963 denied the claim on the grounds that (1) claimant failed to register the same with the Committee on Claims pursuant to Administrative Order No. 6 dated July 29, 1946; (2) claimant and his predecessors are guilty of laches; (3) the right to enforce the claim has prescribed; (4) the owner presumably consented to the construction of the road; (5) the road already existed when the title was actually issued, thus making said title subject to the road encumbrance pursuant to Section 39 of the Land Registration Act; and (6) the annotation on Lot No. 638-B—"that this lot shall not be closed nor disposed of to the prejudice of the using public as such highway"—should be respected by the heirs of Ruperta Cabucos.

On February 16, 1963, Raymunda S. Digran, a daughter of Candido Samson, became administratrix of the estate of Ruperta Cabucos. On February 18, 1963, the Deputy Auditor General, as stated, denied the claim. This decision was the subject of two motions for reconsideration, the later one having been denied on June 10, 1963. On July 9 of the same year Raymunda S. Digran appealed to this Court from said decision altho on July 1, 1963, she filed an amended claim for compensation with the Auditor General. On August 7, 1963 the Auditor General desisted from rendering a decision on the amended claim on July 1, 1963 for the reason that the case was already subjudice.

The bone of contention is whether or not the heirs of Ruperta Cabucos are entitled to compensation for Lot No. 638-B, the road lot.

The Government denies the obligation to give due compensation for Lot No. 638-B mainly on the grounds that Ruperta Cabucos' title over Lot No. 638 was subject to the Government's reservation for public use, such as rights of way and other public servitudes under Sections 19, 20 and 21 of Act 1120 and Section 39 of Act 496; and, that the right to enforce the claim for compensation is barred by prescription and laches.

The grounds relied upon by the Government, stated above, lack merit. Firstly, Section 19, 20 and 21 of Act 1120 sanction no authority for the Government to take private lands covered by said Act for public use without just compensation. Section 19, 20 and 21 state:

"SEC. 19. No purchaser or lessee under this Act shall acquire any exclusive rights to any canal, ditch, reservoir, or other irrigation works, or to any water supply upon which such irrigation works are or may be dependent, but all of such irrigation works and water supplies shall remain under the exclusive control of the Government of the Philippine Islands and be administered under the direction of the Chief of the Bureau of Public Lands for the common benefit of those interests dependent upon them. And the Government reserves as a part of the contract of sale in each instance the right to levy an equitable contribution or tax for the maintenance of such irrigation works, the assessment of which shall be based upon the amount of benefits received, and each purchaser under this Act, by accepting the certificate of sale or deed herein provided to be given, shall be held to assent thereto. And it is further provided that all lands leased or conveyed under this Act shall remain subject to the right of way of such irrigation canals, ditches, and reservoirs as now exist or as the Government may hereafter see fit to construct.

"SEC. 20. All persons receiving title to lands under the provisions of this Act shall hold such lands subject to the same public servitudes as existed upon lands owned by private persons under the sovereignty of Spain, including those with reference to the littoral of the sea and the banks of navigable rivers and rivers upon which rafting may be done.

"SEC. 21. The Civil Governor, when authorized by resolution of the Commission, may, by proclamation, designate any tract or tracts of said lands as non-alienable, and reserve the same for public use, and thereafter

such tracts shall not be subject to sale, lease, or other disposition under this Act."

Section 19 withholds from a purchaser of a friar land exclusive right to any canal, ditch, reservoir, or other irrigation works, or to any water supply upon which such irrigation works are or may be dependent which were already existing at the time of purchase. It also subjects the land so purchased to the right of way of such canal, ditch, reservoir or irrigation works. Section 20 holds the friar lands subject to public servitudes also imposed on other lands owned by private persons. Section 21 gives the Civil Governor, upon resolution of the Philippine Commission, the authority to designate any tract or tracts of friar land as non-alienable and reserve the same for public use. Needless to say, the road constructed through Lot No. 638-B is not the servitude contemplated in Sections 19 and 20, above quoted. Moreover, it has not been shown that Lot No. 638-B was declared non-alienable by the Civil Governor prior to sale to, and purchase by, Ruperta Cabucos so as to prevent her from acquiring ownership thereover.

The provision of Section 39 of the Land Registration Act which states:

"SEC. 39. Every person receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith shall hold the same free of all encumbrances except those noted on said certificate, any of the following encumbrances which may be subsisting namely:

* * * * *

"Third. Any public highway, way, private way established by law or any Government irrigation canal or lateral thereof; where the certificate of title does not state that the boundaries of such highway, way, or irrigation canal or lateral thereof, have been determined."

has no application in this case for the reason that Mango Avenue was constructed subsequent to the acquisition of Lot No. 638 by Ruperta Cabucos. In other words, Mango Avenue is not an "encumbrance which may be subsisting" when Ruperta Cabucos purchased the land from the Government in 1909.

Furthermore, it would be unfair for the Government to invoke the above statutory reservations and take back from Ruperta Cabucos Lot No. 638-B without just compensation after selling it to her and collecting the full price therefor. To do so would abridge her individual right, guaranteed by the Constitution, to own private property and keep it, free from State appropriation without due process and without just compensation. Ours is a government dedicated to uphold and preserve the right of an individual, a fundamental concept in a democratic society which spells the big difference between democracy and totalitarianism. The Government must respect and observe individual rights for, otherwise, the citizenry would be liable to lose confidence in it. Said Mr. Justice Montemayor in the celebrated case of *Herrera vs. Auditor General*:^[2]

"Here before us is a case of law abiding citizen and taxpayer who as far back as 1934, realizing the need of the Government of his lot for road purposes, instead of compelling said Government to resort to expropriation proceedings, readily and in all ingenuousness allowed the Government to immediately occupy it. In his implicit trust in his Government, he did not even bother to require it to make a judicial deposit of the approximate value of his land, not even to make an offer of a price it would pay for it. But since then, he has continuously asked for the payment of said fair price as a condition precedent to his conveyance and sale of the property. But the Government neglected to make an offer, much less make payment, then evidently forgot all about, and now it flatly refuses to pay, evidently forgetting that it had also neglected to secure a conveyance of the property, so that Herrera, as already stated, is still the owner of the same, x x x There is nothing that can more speedily and effectively embitter a citizen and taxpayer against his Government and alienate his faith in it, than an injustice and unfair dealing like the present case."

Secondly, laches and prescription cannot deprive Ruperta Cabucos of her ownership over Lot No. 638-B nor would they dispossess her of her right to demand compensation due for its taking. The land being registered under the Torrens System the Government cannot acquire ownership over the same by prescription in derogation of the registered owner.[3] Such was the ruling of this Court in *Herrera vs. Auditor General*,[4] whose facts are very similar to the instant case. There the Government took a registered property for road purposes sometime in 1934 without prior expropriation proceedings or payment of compensation. The owner, who executed no formal deed of conveyance in favor of the Government, filed his claim for compensation only in 1955.

This case should be resolved differently from *Jaen vs. Agregado*,[5] cited by the Government, where the landowner had formally conveyed the property to the Government but did not file his claim for the price therefor until after 33 years later. Jaen's claim being merely one for a sum of money rather than one involving a question on acquisitive prescription, the same was found and declared to have prescribed. Such is not the nature of the claim instituted in this case.

It is not so clear as to what measures Ruperta Cabucos took to prosecute her claim against the municipal government of Cebu. But the allegation is to the effect that she in fact filed a claim which, since no payment has as yet been made, was probably simply ignored or lost in the malestrom of official red tape. It should be borne in mind that as of today her heirs are still the registered owners of the lot in question. Their title is clean and they have not transferred it in favor of the Government thru any instrument or verbal agreement. Their right cannot be more aptly stated than in *Alfonso vs. City of Pasay*, L-12754, January 30, 1960, where this Court, through Mr. Justice Montemayor, said:

"x x x As registered owner, he could bring an action to recover possession at any time because possession is one of the attributes of ownership of land. However, said restoration of possession by the City of Pasay is neither convenient nor feasible because it is now and has been used for road purposes. So, the only relief available is for the City of Pasay to make due compensation, which it could and should have done years ago since 1925."

Mindful as we are that said right is guaranteed by paragraph (2), Section 1, Article III of the Constitution, which reads:

"(2) Private property shall not be taken for public use without just compensation."

and by Article 435 of the Civil Code, we see no reason why petitioner's claim should not be sustained.

With respect to the contention that petitioner lost her right to demand compensation for Lot No. 638-B because she failed to register her claim in 1946 with the Claims Committee created by Administrative Order No. 6 of July 29, 1946, suffice it to state that said committee was created only for the purpose of determining the obligations of the National Government and failure to register any claim with it did not bar such claim inasmuch as Administrative Order No. 6 did not so provide.

Having actually appealed from the decision signed by the Deputy Auditor General of February 18, 1963, petitioner is estopped from maintaining that said decision is not the one appealable under Section 1 of Rule 45 of the Rules of Court. Nonetheless, it may be worth pointing out that the Deputy Auditor General, being the next highest official in the General Auditing Office, has charge of said office in the absence of the Auditor General[6] and as such performs the functions of the latter, e.g., signing decisions on money claims. That the Deputy Auditor General regularly performed his duties when he signed the decision appealed from is presumed in the absence—as herein—of a contrary showing.

The authorities are agreed that the owner of the land expropriated for public use is entitled to recover the fair

market value of the property at the time of taking plus interest at the legal rate[7]. However, only the fair market value of Lot No. 638-B as of August 1961, the date the amended claim was filed with the City Engineer of Cebu, is disclosed by the records. In fairness to the heirs of Ruperta Cabucos who have been deprived of the use of the lot in question for quite a long time, this Court is inclined under the circumstances to award as reasonable compensation the amount of P13,245.00 fixed by the Cebu Appraisal Committee.

Wherefore, the decision appealed from is reversed. Petitioner-appellant Raymunda S. Digran, as administratrix of the estate of Ruperta Cabucos, is hereby ordered to execute a formal deed of conveyance on Lot No. 638-B in favor of the Republic of the Philippines for which the Republic of the Philippines shall pay, as it is hereby ordered to pay, petitioner-appellant Raymunda S. Digran the sum of P13,245.00 plus interest at the legal rate from the date of filing of her claim on April 20, 1961 until the full amount is paid and attorney's fees in the amount of P1,500.00. No costs. So ordered.

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

[1] Now General Maxilom Avenue, classified as a national road.

[2] 55 Off. Gaz. (10) 1744. 1748-1749.

[3] Section 46, Act. No. 496; Barcelona vs. Barcelona, 100 Phil. 251.

[4] 55 Off. Gaz. (10) 1744.

[5] L-7921, September 28, 1955, 97 Phil. 990.

[6] Section 583, Revised Administrative Code.

[7] Republic vs. Lara, 96 Phil. 170.

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.