

NATIONAL POWER CORP., PLAINTIFF-APPELLANT, VS. FELIPE GATUANGCO, ET AL., DEFENDANT-APPELLEES.

G. R. No. 21865. November 12, 1966

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

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

Appeal from a decision of the Court of First Instance of Davao, in its Civil Case No. 2676. Originally brought to the Court of Appeals, it was certified to this Supreme Court on the ground that the sole issue raised therein is purely legal.

The proceedings had in the trial court, as well as the undisputed facts of this case, may be briefly stated as follows:

Plaintiff National Power Corporation, a public corporation created under Commonwealth Act No. 120, as amended, with authority to exercise the right of eminent domain, instituted action in the above-stated court of first instance, seeking to expropriate several parcels of land, belonging to different defendants, which said plaintiff needed for the construction of access roads, canals, forebay and flumes in connection with the construction of the Talomo River No. 3 Hydro-Electric Project. Some of these defendants acquired, by means of sales patents, their respective lots from the National Abaca and Other Fibers Corporation (NAFCO), pursuant to Republic Act No. 477.

On different dates, defendants, singly or jointly with others, filed motions to dismiss the proceeding, setting forth their objections and defenses thereto, questioning the right of plaintiff to expropriate their properties for the sum stated in the complaint. Some of the defendants also incorporated counterclaims in their motions to dismiss. Plaintiff opposed all of defendants' motions.

While these motions to dismiss were pending consideration, plaintiff presented a motion to amend its complaint, attaching thereto the amended complaint to include bigger areas of the lots of defendants Florencio Alontin, Sofio Galario, and Emeterio Lauron. These three named defendants interposed their opposition to the motion; however, the trial court granted it and admitted the amended complaint.

Acting on defendants' motions to dismiss, the trial court overruled the same and considered them as answers to the proceeding. With the agreement of the parties, the trial court appointed three Commissioners for the purpose of appraising the value of defendants' lots and fixing their just compensation to be paid to defendants.

The Commissioners submitted their report to the court a quo, recommending that the just compensation for defendants' lots be fixed at the rate of & P1,000.00 per hectare. Plaintiff objected to this report, contending, among other things, that with respect to the lots which some defendants bought from the National Abaca and Other Fibers Corporation (NAFCO), pursuant to Republic Act No. 477, the indemnity which it (plaintiff) must pay as just compensation therefor should be equivalent to the amount which these defendants paid the vendor (NAFCO), citing, in support thereof, section 114 of the Public Land Law (Commonwealth Act No. 141, as

amended) and section 9 of Republic Act No. 477.

After hearing on the Commissioners' Report, the trial court rendered judgment, approving the report and rejecting the contention of plaintiff, because these lands were "obtained from the government, not by virtue of said Section 114 of the Public Land Law but by virtue of a special law (Republic Act No. 477) disposing the lands of said entity in favor of the grantees" and that "the properties in litigation are now private properties". The dispositive portion of said decision reads:

"WHEREFORE , judgment is hereby rendered in the above entitled case, to wit:

(a) Approving the Commissioner's Report;

(b) Ordering the plaintiff to pay to the defendants the just and reasonable compensation of their respective portions of the parcels of land object of this condemnation proceeding, at the rate of P1,000.00 per hectare or P0.10 per square meter, deducting therefrom the respective amounts which said defendants have withdrawn as partial payments of said properties:

(c) Authorizing the plaintiff to retain possession of said properties for the same purpose by reason of which it was previously authorized to enter the same; and

(d) Ordering the plaintiff to pay the cost of this proceeding. Upon fulfillment of the above requirements, let a final order of condemnation be issued accordingly.

Let a copy of this decision be furnished the Register of Deeds of Davao."

Plaintiff appealed and assails the decision, reiterating that those defendants "who acquired their lands from the National Abaca and Other Fibers Corporation (NAFCO) under Republic Act No. 477 - should be paid by plaintiff in the amounts equivalent to what they have paid said NAFCO", because the lands disposed of under the provisions of said act (Republic Act No.477) shall be governed by Commonwealth Act No. 141, as amended, and by Act No. 3038 of the Philippine Legislature and the rules and regulations promulgated thereunder (Section 9, Republic Act No. 477), and that it is provided in Section 114 of Commonwealth Act No. 141 that whenever the Government, or any concessionaire of the Government, shall re-take possession of lands previously disposed of under said Commonwealth Act No. 141, the amount to be paid the grantee of the land shall be equivalent to the amount that said grantee has paid the government. On the other hand, defendants-appellees adopt the stand taken by the trial court in its decision.

We find the contentions of plaintiff-appellant to be meritorious and well-taken.

It is not disputed that the lands in question were formerly public lands which were transferred from the Bureau of Lands to the NAFCO for disposition and were later acquired by defendants-appellees, by means of sales patents, from said entity (NAFCO), under Republic Act No. 477. While it is true that the lands were sold or disposed of pursuant to said Act and not by virtue of the Public Land Law and are now private properties of defendants-appellees, We hold that these lands are still subject to the provisions of the Public Land Law, especially the legal reservations, encumbrances, limitations and restrictions imposed by the latter act, because section 9 of Republic Act No. 477 provides that-

"Except when otherwise provided, the disposition of lands under this Act shall be governed by Commonwealth Act No. 141, as amended, and of Act No. 3038 of the Philippine Legislature and of the rules and regulations promulgated thereunder."

It is not disputed by defendants-appellees that the purposes for which their lands are being sought to be expropriated are for the construction of access roads, canals, fore bay and flumes in connection with the

construction of the Talomo River No. 3 Hydro-Electric Project.

Section 114 of the Public Land Law (Commonwealth Act No. 141, as amended) reads:

"There is hereby reserved from the operation of all patents, certificates, entries and grants by the Government authorized under this Act the right to use for the purposes of power, any flow of water in any stream running through or by the land granted, the convertible power from which at ordinary low water exceeds fifty horse power. Where the convertible power in any stream running through or by the land granted under the authority of this Act exceeds fifty horse power, and there is no means of using such power except by the occupation of a part of the land granted under authority of this Act, then so much land as is reasonably necessary for the mill site or site for the power house , and for suitable dam and site for massing the water, is hereby excepted from such grants, not exceeding four hectares, and a right of way to the nearest public highway from the land thus excepted, and also a right of way for the construction and maintenance of such flumes aqueducts, wires, poles. or other conduits as may be needed in conveying the water to point where its fall will yield the greatest power, or the power from the point of conversion to the point of use is reserved as a servitude or easement upon the land granted by authority of this Act: Provided, however, That when the Government or any concessionaire of the Government shall take possession of the land under this section which a grantee under Act shall have paid for, supposing it be subject to grant under this Act, said grantee shall be entitled to indemnity from the Government or the concessionaire, as the case may be in the amount, if any paid by him to the Government for the land taken from him by virtue of this section: x x x x x." (Underlining supplied for emphasis)

We hold that the reservations in favor of the Government or its grantees under said section constitute conditions or limitations that are ingrained in the rights conveyed to defendants-appellees, and bind the land which they acquired, being in the nature of legal encumbrances thereon that the appellees may not evade on the pretext that their lands are no longer of the public dominion. Nor can they rely on the fact that section 114 speaks only of "possession", and not ownership, in the first proviso; for when the latter speaks of the Government, or its concessionaires, "taking possession" of the alienated land, the proviso plainly contemplates a case of the occupation of the land for the purposes specified in the law.

As indicated, the purposes (i.e., construction of access roads, canals, forebay and flumes in connection with the construction of hydroelectric project) for which the lands of defendants-appellees are being expropriated are not disputed. These purposes clearly fall within the contemplation of the above underlined portion of section 114. Under the foregoing circumstance, defendants-appellees are only entitled to indemnity from the plaintiff in the amounts respectively paid by them to the Government for the lands taken from them.

As appearing in the record, the following defendants-appellees bought their lands from the NAFCO, with the respective areas and corresponding purchase price they paid said entity, to wit:

Maximo Caluba.....

Area

2.7949

Amount Paid

has.

P 195.64

Concepcion Andres.....

1.0521

has.

43.13

Emeterio Lauron.....

.5837.14

has.

23.35

Florencio Alcontin.....

1.2173.87

has.

51.57

Alipio Burdon.....

.7892

has.

38.36

Isaac Guario.....

2.0504

has.

82.01

Felipe Gatuangco.....

.1833

has

7.37

Sofio Galario.....

.9715

has.

31.57

The above listed defendants-appellees not having submitted any evidence that they introduced improvements on the lands they purchased from the NAFCO, they should be reimbursed only the amount set opposite their respective names, which is the very same purchase price they paid said NAFCO for their lands.

WHEREFORE, the appealed decision is hereby modified, in the sense that the indemnity payable by the National Power Corporation shall be in proportion to the price paid by the appellees to the National Abaca and Other Fibers Corporation. The records are ordered remanded to the court of origin for further proceedings in conformity with this opinion. Without costs.

Concepcion, C.J., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Barrera, J., on leave, no part.

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