

**CRISTINA DE KNECHT, PETITIONER, VS. HON. PEDRO JL. BAUTISTA,
AS JUDGE PRESIDING OVER BRANCH III OF THE COURT OF FIRST
INSTANCE (PASAY CITY) AND THE REPUBLIC OF THE PHILIPPINES, ...**

G.R. No. 51078. October 30, 1980

Ponente: FERNANDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-51078/>

FERNANDEZ, J.:

This is a petition for certiorari and prohibition filed by Cristina de Knecht against the Honorable Pedro JL. Bautista, as Judge presiding over Branch III of the Court of First Instance of Rizal (Pasay City), and the Republic of the Philippines seeking the following relief:

"WHEREFORE, petitioner respectfully prays that judgment be rendered annulling the order for immediate possession issued by respondent court in the expropriation proceedings and commanding respondents to desist from further proceedings in the expropriation action or the order for immediate possession issued in said action, with costs.

"Petitioner prays that a restraining order or writ of preliminary injunction be issued ex-parte enjoining respondents, their representatives and agents from enforcing the here questioned order for immediate possession-petitioner offering to post a bond executed to the parties enjoined in an amount to be fixed by the Court to the effect that she will pay to such parties all damages which they may sustain by reason of the injunction if the Court should finally decide she is not entitled thereto.

"She prays for such other remedy as the Court may deem just and equitable in the premises.

"Quezon City for Manila, July 16, 1979."[1]

The petitioner alleges that more than ten (10) years ago, the government through the Department of Public Works and Communications (now MPH) prepared a plan to extend Epifanio de los Santos Avenue (EDSA) to Roxas Boulevard; that the proposed extension, an adjunct of another road-building program, the Manila-Cavite Coastal Road Project, would pass through Cuneta Avenue up to Roxas Boulevard; that this route would be a straight one, taking into account the direction of EDSA; that preparatory to the implementation of the aforesaid plan, on December 13, 1974, then Secretary Baltazar Aquino of the Department of Public Highways directed the City Engineer of Pasay City not to issue temporary or permanent permits for the construction and/or improvement of buildings and other structures located within the proposed extension through Cuneta Avenue; that shortly thereafter the Department of Public Highways decided to make the proposed extension go through Fernando Rein and Del Pan Streets which are lined with old substantial houses; that upon learning of the changed plan, the owners of the residential houses that would be affected, the herein petitioner being one of them, filed on April 15, 1977 a formal petition to President Ferdinand E. Marcos asking him to order the Ministry of Public Highways to adopt the original plan of making the extension of EDSA through Cuneta Avenue instead of the new plan going through Fernando Rein and Del Pan Streets; that President Marcos directed then Minister Baltazar Aquino to explain within twenty-four (24) hours why the proposed project should not be suspended; that on April 21, 1977

then Minister Aquino submitted his explanation defending the new proposed route; that the President then referred the matter to the Human Settlements Commission for investigation and recommendation; that after formal hearings to which all the parties-proponents and oppositors were given full opportunity to ventilate their views and to present their evidence, the Human Settlements Commission submitted a report recommending the reversion of the extension of EDSA to the original plan passing through Cuneta Avenue; and that notwithstanding the said report and recommendation, the Ministry of Public Highways insisted on implementing the plan to make the extension of EDSA go through Fernando Rein and Del Pan Streets.[2]

In February 1979, the government filed in the Court of First Instance of Rizal, Branch III, Pasay City presided by the respondent Judge, a complaint for expropriation against the owners of the houses standing along Fernando Rein and Del Pan Streets, among them the herein petitioner. The complaint was docketed as Civil Case No. 7001-P and entitled "Republic of the Philippines vs. Concepcion Cabarrus Vda. de Santos, et al."

The herein petitioner filed a motion to dismiss dated March 19, 1979 on the following grounds:

- (a) The court had no jurisdiction over the subject matter of the action because the complaint failed to allege that the instant project for expropriation bore the approval of the Ministry of Human Settlements and the Metro Manila Governor pursuant to Presidential Decrees Nos. 824, 1396 and 1517;
- (b) The choice of properties to be expropriated made by the Ministry of Public Highways was arbitrary and erroneous;
- (c) The complaint was premature as the plaintiff never really had gone through serious negotiations with the defendant for the purchase of her property; and
- (d) The complaint relied on an arbitrary and erroneous valuation of properties and disregarded consequential damages.

An urgent motion dated March 28, 1979 for preliminary injunction was also filed.

In June 1979 the Republic of the Philippines filed a motion for the issuance of a writ of possession of the property sought to be expropriated on the ground that said Republic had made the required deposit with the Philippine National Bank.

The respondent judge issued a writ of possession dated June 14, 1979 authorizing the Republic of the Philippines to take and enter upon the possession of the properties sought to be condemned.[3]

The petitioner contends that "Respondent court lacked or exceeded its jurisdiction or gravely abused its discretion in issuing the order to take over and enter upon the possession of the properties sought to be expropriated-petitioner having raised a constitutional question which respondent court must resolve before it can issue an order to take or enter upon the possession of properties sought to be expropriated." [4]

The petitioner assails the choice of the Fernando Rein and Del Pan Streets route on the following grounds:

"The choice of property to be expropriated cannot be without rhyme or reason. The condemnor may not choose any property it wants. Where the legislature has delegated a power of eminent domain, the question of the necessity for taking a particular line for the intended improvement rests in the discretion of the grantee power subject however to review by the courts in case of fraud, bad faith or gross abuse of discretion. The choice of property must be examined for bad faith, arbitrariness or capriciousness and due process requires determination as to whether or not the proposed location was proper in terms of the public interests. Even the claim of respondent's Secretary Baltazar Aquino that there would be a saving of P2 million under his new plan must be reviewed for it bears no relation to the site of the proposed EDSA extension. As envisioned by the

government, the EDSA extension would be linked to the Cavite Expressway. Logically then, the proposed extension must point to the south and not detour to the north.

"Also, the equal protection of the law must be accorded, not only to the motel owners along Cuneta (Fisher) Avenue, but also to the owners of solid and substantial homes and quality residential lands occupied for generations"[5]

The respondents maintain that the respondent court did not act without jurisdiction or exceed its jurisdiction or gravely abuse its discretion in issuing the order dated June 14, 1979 authorizing the Republic of the Philippines to take over and enter the possession of the properties sought to be expropriated because the Republic has complied with all the statutory requirements which entitled it to have immediate possession of the properties involved.[6]

Defending the change of the EDSA extension to pass through Fernando Rein - Del Pan Streets, the respondents aver:

"There was no sudden change of plan in the selection of the site of the EDSA Extension to Roxas Blvd. As a matter of fact, when the Ministry of Public Highways decided to change the site of EDSA Extension to Roxas Boulevard from Cuneta Avenue to the Del Pan - Fernando Rein Streets the residents of Del Pan and Fernando Rein Streets who were to be adversely affected by the construction of EDSA Extension to Roxas Boulevard along Del Pan - Fernando Rein Streets were duly notified of such proposed project. Petitioner herein was one of those notified (Annex 1). It may be conceded that the Cuneta Avenue line goes southward and outward (from the city center) while the Del Pan - Fernando Rein Streets line follows northward and inward direction. It must be stated that both lines, Cuneta Avenue and Del Pan - Fernando Rein Streets lines, meet satisfactorily planning and design criteria and therefore are both acceptable. In selecting the Del Pan - Fernando Rein Streets line the Government did not do so because it wanted to save the motels located along Cuneta Avenue but because it wanted to minimize the social impact factor or problem involved."[7]

There is no question as to the right of the Republic of the Philippines to take private property for public use upon the payment of just compensation. Section 2, Article IV of the Constitution of the Philippines provides: "Private property shall not be taken for public use without just compensation."

It is recognized, however, that the government may not capriciously or arbitrarily choose what private property should be taken. In *J.M. Tuazon & Co., Inc. vs. Land Tenure Administration*, 31 SCRA, 413, 433, the Supreme Court said:

"For the purpose of obtaining a judicial declaration of nullity, it is enough if the respondents or defendants named be the government officials who would give operation and effect to official action allegedly tainted with unconstitutionality. Thus, where the statute assailed was sought to be enforced by the Land Tenure Administration and the Solicitor General, the two officials may be made respondents in the action without need of including the Executive Secretary as a party in the action.

"The failure to meet the exacting standard of due process would likewise constitute a valid objection to the exercise of this congressional power. That was so intimated in the above leading *Guido Case*. There was an earlier pronouncement to that effect in a decision rendered long before the adoption of the Constitution under the previous organic law then in force, while the Philippines was still an unincorporated territory of the United States.

"It is obvious then that a landowner is covered by the mantle of protection due process affords. It is a mandate of reason. It frowns on arbitrariness, it is the antithesis of any governmental act that smacks of whim or caprice. It negates state power to act in an oppressive manner. It is, as had been stressed so often, the embodiment of the sporting idea of fair play. In that sense, it stands as a guaranty of justice. That is the standard that must be met by any governmental agency in the exercise of whatever competence is entrusted to

it. As was so emphatically stressed by the present Chief Justice, 'acts of Congress, as well as those of the Executive, can deny due process only under pain of nullity, x x x.'

In the same case the Supreme Court concluded:

"With due recognition then of the power of Congress to designate the particular property to be taken and how much thereof may be condemned in the exercise of the power of expropriation, it is still a judicial question whether in the exercise of such competence, the party adversely affected is the victim of partiality and prejudice. That the equal protection clause will not allow." (p.436)

In the instant case, it is a fact that the Department of Public Highways originally establish the extension of EDSA along Cuneta Avenue. It is to be presumed that the Department of Public Highways made studies before deciding on Cuneta Avenue. It is indeed odd why suddenly the proposed extension of EDSA to Roxas Boulevard was changed to go through Fernando Rein - Del Pan Streets which the Solicitor General concedes "x x x the Del Pan - Fernando Rein Streets line follows northward and inward direction x x x". While admitting "that both lines, Cuneta Avenue and Del Pan - Fernando Rein Streets lines, meet satisfactorily planning and design criteria and therefore are both acceptable x x x", the Solicitor General justifies the change to Del Pan - Fernando Rein Streets on the ground that the government "wanted to minimize the social impact factor or problem involved." [8]

It is doubtful whether the extension of EDSA along Cuneta Avenue can be objected to on the ground of social impact. The improvements and buildings along Cuneta Avenue to be affected by the extension are mostly motels. Even granting, arguendo, that more people will be affected, the Human Settlements Commission has suggested coordinative efforts of said Commission with the National Housing Authority and other government agencies in the relocation and resettlement of those adversely affected. [9]

The Human Settlements Commission considered functionality, social impact and cost. The pertinent portion of its report reads:

"Comparison of Alignment 1 (Cuneta-Fisher) and Alignment 2 (Del Pan-Fernando Rein) based on the criteria of functionality, social impact and cost

A. Functionality

"This issue has to do with the physical design of a highway, inclusive of engineering factors and traffic management considerations.

"From both engineering and traffic management viewpoints, it is incontestable that the straighter and shorter alignment is preferable to one which is not. Systematically and diagrammatically, alignment 1 is straighter than alignment 2. In fact, Director Antonio Goco of the Department of Public Highways admitted that alignment 2 is three (3) meters longer than alignment 1. Furthermore, alignment 1 is definitely the contour conforming alignment to EDSA whereas alignment 2 affords a greater radius of unnatural curvature as it hooks slightly northward before finally joining with Roxas Boulevard. Besides, whichever alignment is adopted, there will be a need for a grade separator or interchange at the Roxas Boulevard junction. From the viewpoint of highway design, it is imperative to have interchanges as far apart as possible to avoid traffic from slowing down in negotiating the slope on the interchanges. Up north would be the future Buendia Avenue-Roxas Boulevard Interchange. Consequently, alignment 1 which is farther away from Buendia Avenue than alignment 2 is the better alignment from the viewpoint of the construction of the grade separator or interchange, a necessary corollary to the extension project. Finally, the choice of alignment 2 which is longer by three (3) meters than alignment 1 could have serious repercussions on our energy conservation drive and from the larger perspective of the national economy, considering that, by admitted statistical data, no less than fifty thousand (50,000) vehicles a day will have to traverse an extra three (3) meters.

B. Social Impact

"The following factual data which have a direct bearing on the issue of social impact were culled from the records of the case and the evidence presented during the public hearings:

(1) Number of property owners:

Alignment 1 73

Alignment 2 49

(2) Incidence of non-resident owners:

Alignment 1 25 (34.3%)

Alignment 2 31 (63.3%)

(3) Number of actually affected residents:

Alignment 1 547

Alignment 2 290 (estimated)

(4) Average income of residents:

Alignment 2:

Below P350	P350-P500	P500-P800	P800-P1000	Over P1000
16(28%)	24(42%)	0(14%)	5(9%)	4(7%)

Alignment 2: Figures not available.

"It is evident from the foregoing figures that social impact is greater on the residents of alignment 1.

C. Cost

"The resolution of the issue of right-of-way acquisition cost depends to a large extent on the nature of the properties to be affected and the relative value thereof. A comparison of alignment 1 and alignment 2 on these two points has produced the following results:

(1) Nature and number of properties involved:

Line 1

Line 2

Lots

Improvements

Lots

Improvements

Residential

41

46

38

34

Commercial

25

24

11

13

Industrial

5

3

1

1

Church

1

1

1

1

Educational

TOTAL

72

75

51

49

(2) Relative value of properties affected:

Lots

Improvements

Total

Alignment 1

P9,300,136

P5,928,680

P15,228,816

Alignment 2

8,314,890

6,644,130

14,959,020

Difference

P 269,796

"It is obvious from the immediately preceding table that the right-of-way acquisition cost difference factor of the two alignment is only P269,796 and not P2M as alleged by the Department of Public Highways and P1.2M as claimed by the oppositors. Consequently, the cost difference factor between the two alignments is so minimal as to be practically nil in the consideration of the issues involved in this case." [10]

After considering all the issues and factors, the Human Settlements Commission made the following recommendations:

"Weighing in the balance all the issues and factors of necessity, functionality, social impact, cost and property valuation as basis for scheme of compensation to be adopted in the instant case, the Hearing Board takes cognizance of the following points:

- The EDSA extension to Roxas Boulevard is necessary and desirable from the strictly technical viewpoint and the overall perspective of the Metro Manila transport system.
- The right-of-way acquisition cost difference factor is so minimal as to influence in any way the choice of either alignment as the extension of EDSA to Roxas Boulevard.
- The negotiated sale approach to compensation as proposed should apply to a whichever alignment is selected.
- The factor of functionality militates strongly against the selection of alignment 2 while the factor of great social and economic impact bears grievously on the residents of alignment 1.

"The course of the decision in this case consequently boils down to the soul-searing and heart-rending choice between people on one hand and progress and development on the other. In deciding in favor of the latter, the Hearing Board is not unmindful that progress and development are carried out by the State precisely and ultimately for the benefit of its people and therefore, recommends the reversion of the extension project to alignment 1. However, before the Government, through its implementing agencies, particularly the Department of Public Highways, undertakes the actual step of expropriating properties on alignment 1 to pave the way for the extension, the Hearing Board recommends the following as absolutely binding and imperative preconditions:

- The preparation, and more importantly, the execution of a comprehensive and detailed plan for the relocation and resettlement of the adversely and genuinely affected residents of alignment 1 which will necessitate the coordinative efforts of such agencies as the Human Settlements Commission, the National Housing Authority and other such governmental agencies. To be concrete, a self-sufficient community or human settlement complete with infrastructure, market, school, church and industries for employment should be set up to enable the affected residents of alignment 1 to maintain their present social and economic standing.
- The prompt payment of fair and just compensation through the negotiated sale approach.

"Finally, the Hearing Board recommends that the Department of Public Highways conduct public hearings before undertaking action on future expropriations of private properties for public use.

"Respectfully submitted to the Human Settlements Commissioners for consideration, final disposition and endorsement thereof to His Excellency, the President of the Philippines.

"Makati, Metro Manila, July 4, 1977." [11]

From all the foregoing, the facts of record and recommendations of the Human Settlements Commission, it is clear that the choice of Fernando Rein-Del Pan Streets as the line through which the Epifanio de los Santos

Avenue should be extended to Roxas Boulevard is arbitrary and should not receive judicial approval. The respondent judge committed a grave abuse of discretion in allowing the Republic of the Philippines to take immediate possession of the properties sought to be expropriated.

WHEREFORE, the petition for certiorari and prohibition is hereby granted. The order of June 14, 1979 authorizing the Republic of the Philippines to take or enter upon the possession of the properties sought to be condemned is set aside and the respondent Judge is permanently enjoined from taking any further action on Civil Case No. 7001-P, entitled "Republic of the Philippines vs. Concepcion Cabarrus Vda. de Santos, et al." except to dismiss said case.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Guerrero, and Melencio-Herrera, JJ., concur.

[1] Petition, Rollo, p. 7.

[2] Petitioner's Memorandum, Rollo, pp. 174-177.

[3] Memorandum of Respondents, Rollo, p. 156.

[4] Petition, Rollo, p. 4

[5] Rollo, pp. 5-6.

[6] Memorandum of Respondents, Rollo, pp. 161-162.

[7] Ibid., Rollo, pp. 165-166.

[8] Ibid., Rollo, p. 166.

[9] Report and Recommendation, Rollo, pp. 125-

[10] Ibid., Rollo, pp. 120-123.

[11] Ibid., Rollo, pp. 125-126.

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.