

ROBIDANTE L. KABILING, PRUDENCIO C. CARBON, POLICARPIO S. SEGUI, RAFAEL C. CARBON, ANTONIO C. BOLASOC, LOLITA C. CASTRO, SOTERO S. FERRER, PERFECTO C. MAMAAT, VICENTE M. MORTERA...

G.R. No. 57424. December 18, 1987

Ponente: YAP, J.

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YAP, J.:

This is a motion for reconsideration of the resolution of July 22, 1985 dismissing the amended petition for lack of merit. In the original petition, dated July 14, 1981, petitioners assailed the constitutionality of P.D. No. 1808 on the grounds that 1) it deprives them of their property without due process of law and without just compensation and of their right to equal protection of the law; and 2) it violates the constitutional prohibition against impairment of the obligation of contracts. Petitioners further alleged that their properties are not proper subject of expropriation by the government.

Required to comment on the petition, the respondent National Housing Authority (NHA for brevity) filed its comment on September 4, 1981 and the respondent Republic of the Philippines on September 17, 1981. In its resolution dated September 24, 1981, the Court Resolved to consider the comment of the respondent Republic of the Philippines as Answer to the petition and required the parties to submit their respective memoranda. The memorandum of the respondent Republic of the Philippines was submitted on October 28, 1981, and that of the petitioners on January 6, 1983. Meanwhile, on February 24, 1982, petitioners filed an urgent petition to resolve their prayer for a temporary restraining order, which the Court denied on April 28, 1982. A motion for reconsideration of said denial was filed by petitioners and respondents were required to comment thereon.

On May 21, 1986, petitioners filed an Amended Petition, accompanied by a motion to admit said amended petition. In the Amended Petition, the petitioners (only four of whom are original petitioners, the rest being newly impleaded) invoke as an additional ground the alleged non-publication of P.D. No. 1808. On May 29, 1981, the Court admitted the Amended Petition and required respondents to comment thereon. The Court further required the Republic of the Philippines to move in the premises within ten (10) days from notice, considering the supervening events that had transpired since the filing of the respective memoranda of the petitioners and the respondent Republic of the Philippines. Respondent NHA submitted its comment on June 11, 1986, stating that contrary to petitioners' allegation in the Amended Petition, P.D. No. 1808 was published in the Official Gazette of October 4, 1982 (Volume 78, No. 40, pp. 5481-4 to 5486-8) and reiterating its arguments discussed in its comment dated September 4, 1981 on the original petition and its later comment/opposition dated March 19, 1982. On July 2, 1986, the NHA filed a manifestation by way of report on the current status of the subject property, stating inter alia 1) that all available workable areas in the subject property, totalling approximately 3.1 hectares and consisting of 378 lots averaging 50 square meters each, have been substantially developed, except for some minor repair work still to be undertaken; 2) that the NHA has already invested P3 million representing the cost of implementing the development plans in the workable areas of the project site; 3) that in accordance with

the provisions of P.D. No. 1808, the NHA has already deposited with the Philippine National Bank the amount equivalent to the cost of all subdivision lots in the project site; 4) that 76 landowners have already withdrawn the corresponding compensation for their respective lots, totalling P1,919,402.44, while 72 landowners including the petitioners Robidante L. Kabiling, et al. have not yet claimed the compensation for their respective lots totalling P1,581,676.52; and 5) that all titles to the homelots, except the lost title of Cresencio Deboma, which is undergoing reconstitution, have already been transferred to respondent NHA pursuant to the provision of P.D. No. 1808.

On July 11, 1986, the new Solicitor General filed on behalf of the respondent Republic of the Philippines a comment and manifestation on the Amended Petition, stating that he was maintaining the position taken by his predecessor in office and reiterating the prayer that the petition be dismissed for lack of merit.

In its resolution of July 22, 1986, the Court Resolved to dismiss the Amended Petition for lack of merit. A motion for reconsideration was filed by the petitioners on August 30, 1986, reiterating the grounds discussed in their memorandum and praying that the resolution dismissing the Amended Petition be reconsidered and set aside. Petitioners pray that the case be decided with "a visible disposition of its merits."

After deliberation, the Court Resolved to DENY the motion for reconsideration, it appearing that no new substantial and compelling ground has been alleged which warrant reconsideration of the Court's resolution.

The petitioners' challenge to the constitutionality of P.D. No. 1808 can not be sustained. The decree, entitled "DIRECTING THE CANCELLATION OF AWARDS, CONTRACTS OF SALE, TITLES OF LOTS WITHIN THE AGNO-LEVERIZA TENANT ASSOCIATION SUBDIVISION AND THE RECONVEYANCE OF THE SAME TO THE GOVERNMENT UPON PAYMENT OF JUST COMPENSATION AND ORDERING THE EXPROPRIATION OF VACANT LOTS ADJACENT THERETO WHICH ARE COVERED BY TRANSFER CERTIFICATE OF TITLES NOS. 70406, 31713, 132081 AND 134314 ALL SITUATED AT MALATE, MANILA FOR UPGRADING UNDER THE ZONAL IMPROVEMENT PROGRAM (ZIP) AND THE DISPOSAL OF LOTS GENERATED THEREIN TO THEIR PRESENT BONA-FIDE OCCUPANTS AND OTHER QUALIFIED SQUATTER FAMILIES AND AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE PURPOSE," is a valid exercise by the State of its police power. Explaining the objective of the decree, P.D. No. 1808 states:

WHEREAS, the government has adopted and implemented the announced policy that slum improvement and resettlement, otherwise known as upgrading of sites and services, is an accepted approach to meeting the housing needs and the primary strategy in dealing with slums and other blighted communities;

WHEREAS, under Proclamation No. 1967, a portion of Lot 62 and Lot 76, both of Block 573 of the Cadastral Survey of Manila which were developed into the Agno-Leveriza Tenant Association (ALTA) Subdivision by the City of Manila pursuant to Republic Act No. 4145, was identified as a depressed area for priority development (APD) under the Zonal Improvement Program;

WHEREAS, Republic Act No. 4145 did not resolve the land tenure problem in the area to the extent that non-resident awardees have to eject bonafide residents in order to acquire physical possession of their awarded lots, and an extensive displacement of structures of resident families has to be undertaken to allow each awardee resident family to have physical possession of the awarded lot;

WHEREAS, there is an urgent need to resolve the land tenure problem in the Agno-Leveriza area to allow the implementation of the comprehensive development plans for this depressed community as provided under the Zonal Improvement Program."

The stated objective of the decree, namely, to resolve the land tenure problem in the Agno-Leveriza area to allow

the implementation of the comprehensive development plans for this depressed community, provides the justification for the exercise of the police power of the State. The police power of the State has been described as "the most essential, insistent and illimitable of powers." [1] It is a power inherent in the State, plenary, "suitably vague and far from precisely defined, rooted in the conception that man in organizing the state and imposing upon the government limitations to safeguard constitutional rights did not intend thereby to enable individual citizens or group of citizens to obstruct unreasonably the enactment of such salutary measure to ensure communal peace, safety, good order and welfare." [2]

The objection raised by petitioners that P.D. No. 1808 impairs the obligations of contract is without merit. The constitutional guaranty of non-impairment of obligations of contract is limited by and subject to the exercise of the police power of the State in the interest of public health, safety, morals and general welfare. [3] For the same reason, petitioners can not complain that they are being deprived of their property without due process of law.

Nor can petitioners claim that their properties are being expropriated without just compensation, since Sec. 3 of P.D. No. 1808 provides for just compensation to lot owners who have fully paid their obligations to the City of Manila under their respective contracts before the issuance of the decree. However, in accordance with our decision in *Export Processing Zone Authority vs. Hon. Ceferino Dulay, etc., et al.*, G.R. No. 59603, April 29, 1987, which declared P.D. No. 1533 unconstitutional, those lot owners who have not yet received compensation under the decree are entitled to a judicial determination of the just compensation for their lots.

SO ORDERED.

Teehankee, C.J., Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

[1] *Smith, Bell & Co. v. National*, 40 Phil. 136; *Rubi v. Prov. Bd. of Mindoro*, 39 Phil. 660.

[2] *Edu v. Ericta*, 35 SCRA 481.

[3] *Victoriano v. Elizalde Rope Workers Union*, 59 SCRA 54.

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