

SIMEON NOBLEZA, PETITIONER, VS. JUDGE NELLY L. ROMERO VALDELLON, COURT OF FIRST INSTANCE OF RIZAL, PASIG BRANCH XXII, AND NATIONAL POWER CORPORATION, RESPONDENTS.

G.R. No. 57529, August 31, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the alleged right of a landowner, whose expropriated land had ceased to be devoted to public use, to repurchase it at a negotiated sale.

Simeon Nobleza in 1941 sold to the National Power Corporation for P1,470 his land, with an area of 1,129 square meters, located at Alabang, Muntinlupa, Rizal, to be used for the construction of its transmission lines.

On December 6, 1979 (when the land was allegedly no longer being used for a public purpose), Nobleza filed a complaint in the Court of First Instance of Rizal to compel the NPC to resell the land to him in a negotiated sale, instead of through public bidding, as contemplated in its board resolution No. 142, series of 1979.

The NPC filed a motion to dismiss the case for lack of cause of action. The lower court dismissed it because there was no showing that the NPC had violated any right of Nobleza. He appealed to this Court. He contends that his action is based on equitable principles.

The Commission on Audit in a letter dated June 4, 1980 invited the attention of the NPC to section 79 of the Government Auditing Code, Presidential Decree No. 1445, which provides that unserviceable government property should be disposed of by public bidding and may be sold at a private sale only when public bidding fails (p. 73, Rollo).

On the other hand, the NPC President apprised the National Power Board in his letter of November 17, 1980 that Nobleza's land was being utilized as right-of-way of the then existing 115 KV Caliraya-Sucat line which was scheduled to be replaced with a double circuit 230 KV Biñan-Sucat line (p. 76, Rollo).

Consequently, the NPC in Resolution No. 199, series of 1980, revoked its Resolution No. 79 dated May 12, 1980, authorizing the resale of the land to Nobleza (p. 77, Rollo).

Nobleza's counsel was asked to comment on the opinion of the auditor and on the said revocation in this Court's resolution of October 25, 1982. Up to this time, he has not submitted his comment.

WHEREFORE, the lower court's order of dismissal is affirmed. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, and Escolin, JJ., concur.

Abad Santos, J., no part.

De Castro, J., on sick leave.

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