

**ISIDRO BERNARDO AND CAYETANO BERNARDO, PETITIONERS, VS.
THE PEOPLE OF THE PHILIPPINES, RESPONDENT.***G.R. No. 62114. July 05, 1983*

Ponente: RELOVA, J.

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Petitioner Isidro Bernardo was a tenant of Ledda Sta. Rosa in her riceland in Plaridel, Bulacan from October 1972 to August 1974. At the time, petitioner constructed a house therein for his family's dwelling. His son, co-petitioner Cayetano Bernardo, was staying with him in said house as his helper in tilling the land. Subsequently, Isidro left the landholding and transferred to San Nicolas, Bulacan without the knowledge of the landowner Ledda Sta. Rosa. Before leaving the landholding, however, Isidro transferred his tenancy rights to his son, co-petitioner Cayetano Bernardo, who continued to reside in subject house. Eventually, Ledda Sta. Rosa took possession of the whole riceland, through her overseer Dr. Patricio E. Cruz.

A case of forcible entry was filed by Ledda Sta. Rosa against herein petitioners, Isidro Bernardo and Cayetano Bernardo, before the Municipal Court of Plaridel, Bulacan. Petitioners lost before the inferior court as well as in the Court of First Instance of Bulacan. Likewise, petitioners lost in their petition for certiorari and mandamus before the Court of Appeals.

Thereafter, Ledda Sta. Rosa sent a letter of demand to petitioners telling them to vacate the house and the land. When the latter failed to leave, a criminal complaint was filed against them for violation of Presidential Decree No. 772 with the fiscal's office. After a preliminary investigation of the case, the provincial fiscal filed the corresponding information with the Court of First Instance of Bulacan, Branch VI, docketed as Criminal Case No. 3022-M, as follows:

"That on or about the 22nd day of April 1974, in the municipality of Plaridel, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused Isidro Bernardo and Cayetano Bernardo, did then and there willfully, unlawfully and feloniously, without the knowledge and taking advantage of the tolerance of the owner Ledda Sta. Rosa y Cruz, succeed and/or continue in possessing and squatting on a parcel of land of the said owner, by erecting thereon their residential house and failing to remove the said residential house despite demand to do so made by the said owner."

Upon arraignment, herein petitioners, father and son, entered a plea of not guilty. Trial on the merits of the case proceeded and, after both parties have submitted their cases, herein petitioners, through counsel, filed a motion to dismiss on the ground of lack of jurisdiction of the court to entertain a case for violation of Presidential Decree No. 772, inasmuch as the same applies to squatters in urban communities only and not to agricultural lands; that in the case of *People vs. Echaves*, 95 SCRA 663, it was held that "Presidential Decree No. 772 does not apply to pasture lands because its preamble shows that it was intended to apply to squatting in urban communities or more particularly to illegal construction in squatter areas made by well-to-do individuals."

The motion to dismiss was denied and the trial court rendered judgment convicting herein petitioners of the crime

charged and sentencing them to pay a fine of P2,500.00 each, with subsidiary imprisonment in case of insolvency. Hence, this petition for certiorari to set aside the decision of the lower court on the ground that it has no jurisdiction to entertain the criminal case for alleged violation of Presidential Decree No. 772 since the facts obtaining in the case do not constitute an offense or violation of said law.

Indeed, in the case of *People vs. Echaves*, supra, this Court, speaking through Mr. Justice Ramon C. Aquino, held that Presidential Decree No. 772 does not apply to pasture lands. The preamble of the decree is quoted below:

"WHEREAS, it came to my knowledge that despite the issuance of Letter of Instruction No. 19 dated October 2, 1972, directing the Secretaries of National Defense, Public Works and Communications, Social Welfare and the Director of Public Works, the PHHC General Manager, the Presidential Assistant on Housing and Rehabilitation Agency, Governors, City and Municipal Mayors, and City and District Engineers, 'to remove all illegal constructions including buildings on and along esteros and river banks, those along railroad tracks and those built without permits on public and private property,' squatting is still a major problem in urban communities all over the country;

"WHEREAS, many persons or entities found to have been unlawfully occupying public and private lands belong to the affluent class;

"WHEREAS, there is a need to further intensify the government's drive against this illegal and nefarious practice."

The intent of the decree is unmistakable. It is intended to apply only to urban communities, particularly to illegal constructions.

The Solicitor General in his comment to the petition manifests that "the intent and purpose of PD 772 is to prohibit and penalize squatting or similar acts on public and private lands located in urban communities. . . . [T]hat no person should be brought within the terms of a penal statute who is not clearly within them, nor should any act be pronounced criminal which is not clearly made so by the statute (*US vs. Abad Santos*, 36 Phil. 243). . . . Consequently, the decision of the lower court in Criminal Case No. 3022-M, convicting herein petitioners of the offense of violation of PD No. 772, is null and void and should, therefore, be set aside."

ACCORDINGLY, this petition for certiorari is GRANTED, the judgment of conviction is SET ASIDE, and said Criminal Case No. 3022-M is hereby DISMISSED.

SO ORDERED.

Teahankee (Chairman), Plana, Escolin and Gutierrez, Jr., JJ., concur.
Melencio-Herrera and Vasquez, JJ., are on leave.

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