

**CRESENCIO M. ROCAMORA, FLORACION RAFOLS-PEDERO,
CONCEPCION PABLEO AND REGIONAL DIRECTOR OF THE
COMMISSION ON AUDIT (REGION VII), PETITIONERS, VS. RTC-CEBU
(BRANCH VIII), ROBERTO...**

G.R. No. 65037. November 23, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

One might say that this case arose out of a mere caprice, which was so characteristic of the old regime. To welcome and most likely to impress Pope John Paul II during his trip to Cebu in 1981, it was decided by the authorities then to widen M.J. Cuenco Avenue where the distinguished dignitary was to pass. This decision would call for the acquisition by the government of lands belonging to the private respondents, who were willing enough to cooperate. However, although they were all devout Catholics, they were nevertheless not prepared to part with their properties out of sheer religious fervor. They naturally expected compensation.

To carry out the project, representatives from the Ministry of Public Highway approached the owners of the affected areas and offered to buy their respective properties. The owners agreed; the basic question was, of course, the payment. As regional director of the MPH, petitioner Cresencio Rocamora, through his authorized representatives, entered into negotiation with the private respondents. The result was the understanding between the Ministry and the owners:

"a.

That Opinion No. 175, S. of 1974 of the Ministry of Justice shall control in that the properties taken/demolished on account of said project shall be paid according to what had been agreed between the parties;

"b.

That payments for the demolished portions of building have to be made as soon as the demolition is effected;

"c.

And that, as for portions of lots taken its corresponding payments will be made later."[*]

An estimating committee composed of MPH engineers was thereafter created and made detailed appraisals of the portions and value of the buildings to be demolished. All of these appraisals were accepted and confirmed by the corresponding owners and approved by Regional Director Rocamora. Each owner then executed with the MPH an "Agreement to Demolish, Remove and Reconstruct Improvement," following which the demolitions were

undertaken.

But when the vouchers for the payment of the individual owners were submitted to petitioner Floracion Rafols-Pedero, the representative of the Commission on Audit in Region VII, MPH, she refused to pass them in audit.[1] A series of eight endorsements in the Commission on Audit then followed, which boiled down to the original objection expressed by Pedero, to wit, that the appraisals were incorrect because they were not based on the actual losses sustained by the owners.[2] Besides, they were violative of P.D. 76, governing the determination of just compensation in expropriation cases.[3]

This was how things stood on November 25, 1981, when the first seven[4] of the herein private respondents filed a complaint against the herein petitioners in the respondent court for specific performance, i.e., payment of the compensation due them, plus damages and attorney's fees. They were joined later in an amended complaint dated May 20, 1982, by the six other private respondents[5] who were to take a common stand with the original complainants.

Briefly, the plaintiffs alleged that their properties had been taken by the government without payment to them, despite their repeated demands, of the agreed compensation; this consisted of the estimated cost of the improvements and the value of the land at the rate of P350.00 per square meter. In his answer, petitioner Rocamora declared that he had recommended such payment but the vouchers he had approved for this purpose were not passed in audit by the other defendants.[6] For their part, the representatives of the COA averred that they could not approve the claims because they covered the value of the entire buildings and were not limited to the extent of the damage sustained by the owners.[7] The claims had been returned to the MPH for the necessary adjustments, which were still pending.[8] By way of special and affirmative defenses, they also argued that their decision had not yet been appealed to the Commission on Audit conformably to law and as required by the doctrine of exhaustion of administrative remedies. Furthermore, the compensation should be determined not by negotiation but in accordance with the formula fixed by P.D. 76.[9]

On motion of the plaintiffs, to which the defendants filed an opposition, the respondent court was asked to render a judgment on the pleadings on the ground that the answer failed to tender an issue and otherwise admitted the material allegations in the complaint. Granting the motion in its decision of December 9, 1982, the trial judge[10] ruled in favor of the plaintiffs and ordered the payment to them of their respective claims for compensation as prayed for in their complaint plus attorney's fees and costs.[11]

In this appeal by certiorari, the petitioners ask us to reverse the said judgment on the grounds that the respondent court erred:

“1)

In granting plaintiffs' motion for judgment on the pleadings in spite of the existence of material factual issues raised by defendants' answer;

“2)

In taking cognizance of the case despite plaintiffs' failure to exhaust administrative remedies;

“3)

In awarding plaintiffs' claims for compensation on the basis of the values of the whole improvements and not

on the extent of the damages caused by the road-widening project of the Ministry of Public Highways.”[12]

Obviously, we must rule in favor of the petitioners on the first ground. Judgment on the pleadings was not proper in the case at bar because it did not satisfy the requirements of Rule 19 of the Rules of Court providing as follows:

"Section 1. Judgment on the pleadings. - Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleadings, the court may, on motion of that party, direct judgment on such pleadings. x x x"

A reading of the answer will readily show that, contrary to the plaintiffs' contention, the defendants did not admit all the material allegations in the complaint. In fact, they were emphatic in objecting to the compensation claimed by the plaintiffs because they said it was based on the value of the entire property and not on the actual loss sustained. This was precisely the reason, they said, why the vouchers for the compensation of the plaintiffs, although approved by petitioner Rocamora, could not be passed in audit by the other petitioners.

There were indeed factual issues raised in the answer that had to be ascertained at a hearing and not on the basis of the bare allegations in the pleadings. Evidence had yet to be submitted by the parties. That evidence had yet to be assessed by the trial court. It was therefore improper for the judge to rule on the strength alone of the plaintiffs' allegations and to disregard the defendants' expressed denial thereof in their answers.

As the Court held in the case of *Tan v. Gua Tian Ho*: [13]

"x x x there are questions of fact that have to be clarified before the court may adjudge the herein defendant liable to the plaintiff for the amount claimed by the latter. There is, therefore, no occasion in this case for rendering a judgment on the pleadings, considering that defendant, in his answer, tenders an issue which cannot be brushed aside without presentation of evidence."

And we reiterated this rule in *Benavidez v. Alabastro*, thus: [14]

"It thus appears that judgment on the pleadings can only be rendered when the pleading on the party against whom the motion is directed, be he the plaintiff or defendant, does not tender an issue, or admits all the material allegations of the pleading of the movant, otherwise judgment on the pleadings cannot be rendered. Here, the defendants' answer tenders an issue, for it does not only deny the material allegations of the complaint, but it sets up certain special and affirmative defenses. The nature of such answer calls for presentation of evidence, and therefore, it is error to render decision thereon without it."

On the second ground, we affirm the salutary rule that decisions of administrative authorities must first be appealed to their superiors in the executive department before resort to judicial review may be permitted; otherwise, the case may be dismissed for lack of a cause of action.[15] This is based on sound public policy and practical grounds. One reason is that the administrative superiors, if given a chance, can and will correct the mistakes of their subordinates, thus rendering judicial intervention unnecessary. Another is that administrative authorities are presumed to be experts in their respective fields of specialization and their decisions should as a rule not be disturbed by the courts of justice, which cannot claim similar knowledgeability. A third justification is that these decisions are usually reviewable only in the special civil actions of certiorari, prohibition and mandamus, which are not accepted except only where there is no plain, speedy and adequate remedy available to the petitioner. No less important is the consideration that by withholding action until the administrative remedies have been exhausted, the judiciary will be observing the doctrine of separation of powers and according deference to the acts of a coordinate department of the government.

But the doctrine of exhaustion of administrative remedies is not an inflexible rule. In fact, it yields to many accepted exceptions. As we have noted in a number of cases, exhaustion is not necessary where inter alia there is

estoppel on the part of the party invoking the doctrine;[16] where the challenged administrative act is patently illegal, amounting to lack of jurisdiction;[17] where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant;[18] where the amount involved is relatively small so as to make the rule impractical and oppressive;[19] and where the question involved is purely legal and will ultimately have to be decided anyway by the courts of justice.[20] At least two of these exceptions are applicable to the case at bar.

In the first place, it appears that the administrative officers have sat on this case for as long as nine months, during which as many as eight endorsements were made from office to office in an apparently endless discussion and denial of the complainants' claims for compensation.[21] Even the supposed adjustment of the appraisals to be made by the Ministry of Public Highways was still pending after the complaint was filed and when the defendants submitted their answer.[22] The matter was apparently hibernating in the doldrums of bureaucratic indecision and inaction. In the meantime, the complainants remained unpaid despite their repeated demands.

In the second place, the other issue raised was a question of law, to wit, the applicable criterion in the determination of the compensation to be paid the plaintiffs for the loss they had sustained. More specifically, the legal question presented was whether or not P.D. 76 should dictate the amount of the compensation to be paid the owners as against the price they negotiated with the Ministry of Public Highways.

It is not disputed that P.D. 1445, otherwise known as the Government Auditing Code of the Philippines, provides:

"Sec. 48. Appeal from decision of Auditors. - Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission."

However, in view of the exceptions above noted, we hold that the complaint was not prematurely filed and could be validly admitted by the trial court despite the failure to exhaust administrative remedies.

The plaintiffs were not supposed to hold their breath and wait until the Commission on Audit and the Ministry of Public Highways had acted on the claims for compensation for the lands appropriated by the government. The road had been completed; the Pope had come and gone; but the plaintiffs had yet to be paid for the properties taken from them. Given this official indifference, which apparently would continue indefinitely, the private respondents had to act to assert and protect their interests.

As for the defendants' contention that the applicable law in the ascertainment of the said compensation was P.D. 76, this was a question that at best could be resolved only tentatively by the administrative authorities. The final decision on the matter rested not with them but with the courts of justice.

The Court recalls the case of *Amigable v. Cuenca*[23] which, although not exactly analogous, also involved a deviation from the doctrine of exhaustion of administrative remedies. In that case, the plaintiff was allowed to sue directly for the value of the land taken from her by the government instead of being required to first file her claim with the General Auditing Office in accordance with the usual procedure. The doctrine was waived because it was the government itself that had initially violated the procedural requirements. It had simply taken the plaintiff's property without filing the appropriate expropriation proceedings and paying her just compensation.

Turning now to the third ground, the Court observes first that this petition does not involve an expropriation of the plaintiffs' properties for the street-widening project. These properties were taken by the government by virtue of negotiated sales voluntarily entered into between the Ministry of Public Highways and the private respondents. No compulsion was exerted. Eminent domain was not invoked. Clearly then, the laws on the ascertainment of the just compensation to be paid the expropriated property were not applicable.

It follows that the just compensation to be awarded to the owners is not their own declared valuation of their respective properties or the assessment thereof by the government, whichever is lower, conformably to P.D. 76. This rule was observed only in eminent domain cases, where there was no negotiation and agreement as to the value of the properties taken. Moreover, even assuming that this petition involves the exercise of the power of expropriation, the said decree would still be inapplicable now. The Court declared this decree unconstitutional in *Export Processing Zone Authority v. Dulay*[24] and has affirmed its nullity in other subsequent cases.[25]

The private respondents and the MPH were correct in negotiating their agreement conformably to Opinion No. 175, S. of 1974, of the Department of Justice. What is applicable here is not the law on eminent domain but the law on contracts as embodied in the Civil Code. Under its Article 1306, the contracting parties may enter into any terms and conditions they may deem convenient provided they are not contrary to law, morals, good customs, public order or public policy. That is what the MPH and the private respondents have done in this case.

It is their stipulations then that the respondent court must now interpret and apply, on the basis of the evidence to be presented by the parties, in ascertaining the compensation to which the private respondents are entitled.

The private respondents have suffered long enough from the inaction of the authorities in paying them the value of the properties taken from them in 1981. It is time the responsible officials determined the exact amounts due these property owners whose lands have since that year formed part of the widened avenue that is now serving the comfort and convenience of the people of Cebu.

WHEREFORE, the questioned decision is SET ASIDE. This case is REMANDED to the court a quo for trial on the merits and a determination of the compensation to be paid the complainants as a result of the taking of their properties for the street-widening project. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[*] Rollo, p. 42.

[1] Rollo, p. 43.

[2] Ibid.

[3] Id., pp. 43-44.

[4] Roberto Galvez, Antonio Nicdao, Teodulfo Regis, Justino Bo-oc, Erlinda Cuenco, Antonio Padilla, and Lope Tudit (for himself and in behalf of the heirs of Emiliano Tudit).

[5] Primitivo Briones, Oscar Garces Napisa, David Garces (represented by Oscar G. Napisa), Rogelio Santiañez, Benito Bermejo, and Concordio Opulentissima.

[6] Rollo, p. 44.

[7] Ibid., p. 43.

[8] Id.

[9] Id., pp. 43-44.

[10] Judge Bernardo Ll. Salas.

[11] *Id.*, pp. 56-71.

[12] *Id.*, pp. 47-48.

[13] 6 SCRA 1031.

[14] 12 SCRA 553.

[15] *C.N. Hodges v. Mun. Board of the City of Iloilo*, 19 SCRA 28; *Atlas Consolidated Mining and Development Corp. v. Mendoza*, 2 SCRA 1065; *Pineda v. Court of First Instance of Davao*, 111 Phil. 643

[16] *Vda. de Tan v. Veterans Backpay Commission*, G.R. No. L-12944, March 30, 1969.

[17] *Azur v. Provincial Board*, 27 SCRA 50.

[18] *Gravador v. Mamigo, et al.*, 20 SCRA 742.

[19] *Cipriano v. Marcelino*, 43 SCRA 291.

[20] *Bagatsing v. Ramirez*, 74 SCRA 306; *Del Mar v. Phil. Veterans Administration*, 51 SCRA 340; *Cipriano v. Marcelino*, 43 SCRA 291.

[21] *Rollo*, pp. 112-113.

[22] *Id.*, p. 43.

[23] 43 SCRA 360.

[24] 149 SCRA 307.

[25] *Manotok, et al. v. National Housing Authority*, 150 SCRA 89; *Ignacio v. Guerrero*, 150 SCRA 369; *Sumulong v. Guerrero*, 154 SCRA 461; *Zaballero v. National Housing Authority*, 155 SCRA 223; *Leyra v. IAC*, 155 SCRA 39.

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