

**SPOUSES LEONCIO MEJARES AND EPIFANIA LARUMBE,
PETITIONERS, VS. HON. JUAN Y. REYES, IN HIS OFFICIAL CAPACITY
AS PRESIDING JUDGE, RTC-CEBU, BRANCH XIV, AND MANUEL
ADARNA, RESPONDE...**

G.R. No. 66555. March 07, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

May a person who was initially allowed to build his house on a piece of agricultural land not belonging to him be held criminally liable for violation of the Anti-Squatting Law (P.D. 772) for refusing to vacate said property despite the landowner's subsequent demand for him to leave as the latter needed the land himself? This is the main issue resolved in this Petition for certiorari to set aside a judgment of conviction rendered by the Regional Trial Court of Cebu, Branch XIV, in Criminal Case No. CU-4971 dated December 10, 1982.

The case was transferred by the Second Division to the Third Division on October 23, 1995. After due consultation and deliberation on the Petition, Comment by the Solicitor General, Memoranda of the petitioners, the Solicitor General and the private respondents, and other submissions by the parties, the Court assigned the writing of this Decision to the undersigned ponente.

The Fact

On April 21, 1978, respondent Manuel Adarna purchased Cadastral Lot No. 7-B, located at Tulay, Minglanilla, Cebu, from Vidal Zafra, who in turn had acquired it from EscolasticQ Canizares. The latter and his wife acquired the lot in 1956 through sale application duly approved by the Bureau of Lands for residential and agricultural purposes.

But even before respondent Adarna became owner of the property in April, 1978, petitioners had already been occupying a portion thereof, upon which they had built their house, by tolerance of the previous owner. Although respondent Adarna had served notice on petitioners to move out, upon their plea, he allowed them to continue staying on the property without payment of rental provided they will vacate the same and remove their house therefrom when the time comes that he (respondent Adarna) will need the land.[1]

In May, 1979, respondent Adarna notified petitioners that he needed the lot. Since petitioners refused to vacate, respondent Adarna brought a criminal complaint for squatting against the petitioners.

On September 28, 1979, the Assistant Provincial Fiscal of Cebu[2] filed an Information charging petitioners with violating Presidential Decree No. 772, otherwise known as the Anti-Squatting Law, as follows:[3]

"That within the period prior to and after April 21, 1978, the above named accused did, them (sic), and there wilfully, unlawfully and feloniously succeed in occupying or possessing for residential and other purposes a portion of a parcel of land covered by Certificate of Title No. 7-B situated in Barangay Tulay, Municipality of Minglanilla, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, owned by

Manuel Adarna and Esperanza Adlawan of Tulay, Minglanilla, Cebu, by taking advantage of the tolerance of the latter and against the will of the complainant (sic).

"In violation of Presidential Decree No. 772." (Italics supplied)

After the prosecution had rested its case on August 13, 1980,[4] the case was set for hearing on September 12, 1980 for the defense to present its evidence. On said date, upon motion of the defense, the hearing was postponed to October 30 and 31, 1980. But on October 29, petitioners thru counsel filed a motion for postponement, which motion was objected to by the prosecution. The trial court sustained the prosecution's contention and considered the defendants as having waived their rights to present evidence, and thus the case was deemed submitted for decision.

On December 10, 1982, without any evidence having been presented by petitioners, respondent Judge rendered judgment convicting them, as follows:[5]

"WHEREFORE, the accused are sentenced to pay a fine of P1,000.00 and the costs, with subsidiary imprisonment (sic) in case of insolvency, and to remove their house from the land of Manuel S. Adarna, located at Tulay, Bo. Tungkop, Minglanilla, Cebu."

Petitioners' motion for reconsideration was denied by respondent Judge for lack of merit, in these words:[6]

"The ruling of the Supreme Court in *People vs. Hon Vicente B. Echavez* (sic), L-47757-61, January 28, 1980, is inapplicable to the instant case. In the *Echavez* (sic) case, it has been shown that the land involved is a pasture land, while in this case, there is evidence to show that the land is residential, certainly not a pasture land. Besides, the defense concedes that the land involved in this case is a residential land titled in the name of Manuel Adarna issued in his name (sic) which sprang from a sales application presented way back in the year 1956 situated in Minglanilla, Cebu, a thickly populated municipality near Cebu City. Minglanilla, for all intents and purposes, is within the urban area of Metro-Cebu."

On February 14, 1984, petitioners filed the instant Petition assailing the aforementioned Decision and Order of respondent Judge allegedly for being contrary to law and jurisprudence and for having been rendered with grave abuse of discretion, in excess of or without jurisdiction.[7]

In his Comment and Memorandum, the Solicitor General joined petitioner's prayer for the granting of the Petition.

On March 14, 1984, this Court issued a temporary restraining order enjoining the respondents from removing the petitioners house from the land in question.[8]

The Issues

Before this Court, petitioners cited the following errors allegedly committed by the court a quo:[9]

"1. Accused did not wilfully, unlawfully and feloniously succeed in occupying or possessing for residential purposes a portion of complainant's land by taking advantage of the tolerance of the latter and against his will, within the period prior to and after April 21, 1978;

"2. As enunciated in '*People vs. Echavez* (sic), L-47757-6 1, January 28, 1980,' PD. 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 constructions in squatter areas made by well-to-do individuals."

Before we resolve the substantial issues, we noted that in his Memorandum, private respondent Adarna assailed petitioner's choice of remedy, alleging that certiorari cannot substitute for lost appeal, and contending further that, assuming that the remedy of a special civil action for certiorari be the proper remedy, still, the instant petition

was not filed within a reasonable period.[10] The said Decision dated March 2, 1983 was promulgated, according to private respondent, on March 2, 1983, while this Petition was filed only on February 14, 1984.

In fine, the issues are: (1) whether this Court has jurisdiction to entertain this petition under Rule 65; (2) whether petitioners dispossessed respondent Adarna of the lot "against his will"; and (3) whether the use as residence of an agricultural property, located in a rural - not urban - community may be considered a violation of the Anti-Squatting Law (P.D. 772).

The First Issue: Jurisdiction

On the question of whether this Court has jurisdiction to entertain the instant petition, we rule in the affirmative, and treat this case as falling within the exception to the general rule governing petitions for certiorari. In *Luna vs. Court of Appeals*,^[11] this Court held:

"x x x Technicalities should be disregarded if only to render to the respective parties that which is their due. Thus, although We have said that certiorari cannot be a substitute for a lapsed appeal, We have, time and again, likewise held that where a rigid application of that rule will result in a manifest failure or miscarriage of justice, the rule may be relaxed. Hence, considering the broader and primordial interests of justice, particularly when there is grave abuse of discretion, thus impelling occasional departure from the general rule that the extraordinary writ of certiorari cannot substitute for a lost appeal, respondent appellate court may legally entertain the special civil action for certiorari."

In the instant case, certiorari is the only remedy available. Otherwise, a wrongful conviction of an innocent man and woman would be tolerated by a literal adherence to procedural niceties.

The Second Issue: Dispossession

To resolve the second issue, it is necessary to consider carefully the purposes and specific provisions of P.D. 772:

"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:

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order;

SECTION 1. Any person who, with the use of force, intimidation or threat, or taking advantage of the absence or tolerance of the landowner, succeeds in occupying or possessing the property of the latter against his will for residential, commercial or any other purposes, shall be punished by an imprisonment ranging from six months to one year or a fine of not less than one thousand nor more than five thousand pesos at the discretion of the court, with subsidiary imprisonment in case of insolvency.

If the offender is a corporation or association the maximum penalty of five years and the fine of five thousand pesos shall be imposed upon the president, director, manager or managing partners thereof.

SECTION 2. This decree shall take effect immediately." (Italics supplied)

The information alleges that petitioners succeeded "in occupying or possessing for residential and other purposes a portion of a parcel of land x x x by taking advantage of the tolerance of x x x and against the will of' respondent Adarna. The offense covered by Section 1 of the above-quoted decree embraces three (3) elements, namely: (a) accused is not the owner of the land in question, (b) accused succeeded in occupying or possessing the said property through force, intimidation, or threat or by taking advantage of the absence or tolerance of the owner; and (c) such occupation of the property is without the consent or against the will of the owner.[12] It goes without saying that all the elements or requisites of the offense charged must be established or proven beyond reasonable doubt. We find that the second and third elements or requisites of the offense are not present in the instant case.

In his complaint-affidavit,[13] respondent Adarna admitted that he had given his express consent to petitioners to stay on the premises free of rent, in these words:

"That I consented to the request of Leoncio Mijares (sic) and thus allowed them to stay in the premises, without any rental at all and that they should immediately remove the house from such lot the very moment that I give them notice to do so";

Having thus consented to petitioners' possession and occupancy of the property, respondent Adarna may not validly claim that he had lost such possession to petitioners against his will. And the fact that he had asked them to vacate does not render their occupancy as one made "with the use of force, intimidation or threat, or taking advantage of the absence or tolerance of the landowner." Respondent Adarna cannot claim that petitioners had taken advantage of his tolerance when they first moved into the premises since the lot then belonged to his predecessors-in-interest.

The Third Issue: Applicability to Rural Land

With respect to the third issue, we recall our ruling in a previous case that P.D. 772 applies only to squatting in urban communities. In *People vs. Echaves*,[14] this Court held:

"We hold that the lower court correctly ruled that the decree 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 constructions in squatter areas made by well-to-do individuals. The squatting complained of involves pasture lands in rural areas." (*Italics supplied*)

In *Bernardo vs. People*,[15] this Court reiterated its ruling in *Echaves*. Recently, however, said doctrine was expressly reversed by the Court in *Jumawan, et al., vs. Eviota, et al.*,[16] as follows:

"x x x That it is the purpose for which the land is intended and not the place where it is located that is material is clear from the text of the statute.x x x

xxx xxx xxx

Thus a piece of land may be found in a barangay. So long as it is for residential, commercial, or any other purpose, it comes within the purview of the Decree, and any person, who, with the use of force, intimidation or threat or taking advantage of the absence or tolerance of the landowner, occupies or takes possession of such property against the will of the latter is guilty of squatting.

It is true that in *People v. Echaves* it was stated that the Decree was intended to apply to squatting in "urban communities or more particularly to illegal constructions in squatter areas made by well-to-do individuals." The statement, however, is only a dictum, because the lands in that case were pasture lands. As this Court noted, squatting on public agricultural lands is punishable under another statute, Republic Act No. 947." (*italics ours*)

Be that as it may, the petitioners should still be acquitted even if the agricultural land they were occupying under

Jumawan, comes within the purview of the Anti-Squatting Law. This is because, as previously discussed, the prosecution had failed to show that the occupancy was obtained "through force, intimidation, or threat or by taking advantage of the absence or tolerance of the owner" or was "without the consent or against the will of the owner."

Finally, it should be emphasized that by this Decision, this Court is not ruling on the legality of the possession and use of the premises by petitioners. It is merely ruling on the propriety and legality of petitioners' conviction by the respondent Court.

WHEREFORE, the Petition is GRANTED. This judgment of conviction in Criminal Case No. CU-4971 is hereby SET ASIDE. No costs.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, p. 15.

[2] Fiscal Andres D. Amil; Rollo, p. 4.

[3] Rollo, p. 9.

[4] *Ibid.*, p. 10.

[5] *Ibid.*

[6] *Ibid.*, p. 14.

[7] *Ibid.*, pp. 3-8.

[8] *Ibid.*, pp. 18-19.

[9] Petition, pp. 3-4; Rollo, pp. 5-6.

[10] Memorandum for private respondent, pp. 2-3; Rollo, pp. 105-106.

[11] 216 SCRA 107, atp. 111, (November 27, 1992), citing *Aranda vs. CA*, 186 SCRA 456 (June 13, 1990) and *Goidloop Properties, Inc. vs. CA*, 212 SCRA 498 (August 11, 1992).

[12] *Ocampo vs. Court of Appeals*, 180 SCRA 27, 31 (December 8, 1989).

[13] Rollo, p. 15.

[14] 95 SCRA 663, 665 (January 28, 1980).

[15] 123 SCRA 365, 367-368 (July 5, 1983).

[16] 234 SCRA 524, 529 (July 28, 1994).

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