

MUNICIPALITY OF MEYCAUAYAN, BULACAN, HON. ADRIANO D. DAEZ, MUNICIPAL MAYOR, MEYCAUAYAN, BULACAN, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND PHILIPPINE PIPES & MERCHANDIZIN...

G.R. No. 72126. January 29, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review on certiorari of the resolution dated April 24, 1985 by the former Intermediate Appellate Court, now Court of Appeals, setting aside its earlier decision dated January 10, 1985 and dismissing the special civil action for expropriation filed by the petitioner.

In 1975, respondent Philippine Pipes and Merchandising Corporation filed with the Office of the Municipal Mayor of Meycauayan, Bulacan, an application for a permit to fence a parcel of land with a width of 26.8 meters and a length of 184.37 meters covered by Transfer Certificates of Title Nos. 215165 and 37879. The fencing of said property was allegedly to enable the storage of the respondent's heavy equipment and various finished products such as large diameter steel pipes, pontoon pipes for ports, wharves, and harbors, bridge components, pre-stressed girders and piles, large diameter concrete pipes, and parts for low cost housing.

In the same year, the Municipal Council of Meycauayan, headed by then Mayor Celso R. Legaspi, passed Resolution No. 258, Series of 1975, manifesting the intention to expropriate the respondent's parcel of land covered by Transfer Certificate of Title No. 37879.

An opposition to the resolution was filed by the respondent with the Office of the Provincial Governor, which, in turn, created a special committee of four members to investigate the matter.

On March 10, 1976, the Special Committee recommended that the Provincial Board of Bulacan disapprove or annul the resolution in question because there was no genuine necessity for the Municipality of Meycauayan to expropriate the respondent's property for use as a public road.

On the basis of this report, the Provincial Board of Bulacan passed Resolution No. 238, Series of 1976, disapproving and annulling Resolution No. 258, Series of 1975, of the Municipal Council of Meycauayan. The respondent, then, reiterated to the Office of the Mayor its petition for the approval of the permit to fence the aforesaid parcels of land.

On October 21, 1983, however, the Municipal Council of Meycauayan, now headed by Mayor Adriano D. Daez, passed Resolution No. 21, Series of 1983, for the purpose of expropriating anew the respondent's land. The Provincial Board of Bulacan approved the aforesaid resolution on January 25, 1984.

Thereafter, the petitioner, on February 14, 1984, filed with the Regional Trial Court of Malolos, Bulacan, Branch VI, a special civil action for expropriation.

Upon deposit of the amount of P24,025.00, which is the market value of the land, with the Philippine National Bank, the trial court on March 1, 1984 issued a writ of possession in favor of the petitioner.

On August 27, 1984, the trial court issued an order declaring the taking of the property as lawful and appointing the Provincial Assessor of Bulacan as court commissioner who shall hold the hearing to ascertain the just compensation for the property.

The respondent went to the Intermediate Appellate Court on petition for review. On January 10, 1985, the appellate court affirmed the trial court's decision. However, upon motion for recon-sideration by the respondent, the decision was re--examined and reversed. The appellate court held that there is no genuine necessity to expropriate the land for use as a public road as there were several other roads for the same purpose and another more appropriate lot for the proposed public road. The court, taking into consideration the location and size of the land, also opined that the land is more ideal for use as storage area for respondent's heavy equipment and finished products.

After its motion for reconsideration was denied, the petitioner went to this Court on petition for review on certiorari on October 25, 1985, with the following arguments:

"Petitioners most respectfully submit that respondent Court has decided a question of substance not in accord with law or with applicable decisions of this Honorable Supreme Court; that the judgment is based on a misapprehension of facts and the conclusion is a finding grounded entirely on speculation, surmises, and conjectures, because:

- It concluded, that by dismissing the complaint for expropriation the existence of legal and factual circumstance of grave abuse of discretion amounting to lack of jurisdiction committed by the respondent Judge without any shred of evidence at all contrary to the law on evidence;
- It concluded, in Its decision that respondent Philippine Pipes and Merchandizing Corporation has no need of the property sought to be condemned on the use to which it is devoted as a private road but allegedly for storage contrary to the allegations of respondent Philippine Pipes and Merchandizing Corporation itself;
- It anchored its decision on factual situations obtaining a long, long time ago without regard to the relatively present situation now obtaining." (Rollo, pp. 8-9)

In refuting the petitioner's arguments, the private respondent contends that this Court may only resolve questions of law and not questions of fact such as those which the petitioner puts in issue in this case. The respondent further argues that this Court may not also interfere with an action of the Court of Appeals which involves the exercise of discretion.

We agree with the respondent.

The jurisdiction of this Court in cases brought to us from the Court of Appeals is limited to the review of errors of law (*Rizal Cement Co., Inc. v. Villareal*, 135 SCRA 15, 24), factual issues not being proper in certiorari proceedings (See *Ygay, et al. v. Hon. Escareal, et al.*, 135 SCRA 78, 82).

This Court reviews and rectifies the findings of fact of the Court of Appeals only under certain established exceptions such as: (1) when the conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd and impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; and (5) when the court, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both the appellant and the appellee (*Moran, Jr. v. Court of Appeals*, 133 SCRA 88).

None of the exceptions warranting non-application of the rule is present in this case. On the contrary, we find that the appellate court's decision is supported by substantial evidence.

The petitioner's purpose in expropriating the respondent's property is to convert the same into a public road which would provide a connecting link between Malhacan Road and Bulac Road in Valenzuela, Bulacan and thereby ease the traffic in the area of vehicles coming from MacArthur Highway.

The records, however, reveal that there are other connecting links between the aforementioned roads. The petitioner itself admits that there are four such cross roads in existence. The respondent court stated that with the proposed road, there would be seven.

Appreciating the evidence presented before it, with particular emphasis on the Special Committee's report dated March 10, 1976, the Court of Appeals declared:

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"FACTS ESTABLISHED ON OCULAR INSPECTION

In the ocular inspection, the following facts came into the limelight:

(1)

The property in question of the Philip-pine Pipes and Merchandizing Corporation intended to be expropriated by the Municipality of Meycauayan is embraced under Transfer Certificate of Title No. 37879 and is a private road of the company used in the conduct and operation of its business, with the inhabitation in nearby premises tolerated to pass the same. It extends from Bulac Road to the south, to Malhacan Road on the north, with a width of about 6 to 7 meters, more or less.

(2)

Adjoining this private road on the eastern side, is a vacant property also belonging to the Philippine Pipes and Merchandizing Corporation and extending also from Bulac Road to Malhacan Road, with a high wall along the property line on the east side thereof serving as a fence.

(3)

Opposite the private road, after cros-sing Bulac Road, is the gate of the factory of the Philippine Pipes and Merchandizing Corporation.

(4)

From the private road of the firm on the eastern direction about 30 to 40 meters distance are subdivision roads of an existing subdivision with a width of 6 to 7 meters, more or less, running parallel to the said private road of the firm and likewise extending from Bulac Road to Malhacan Road. Whether said subdivision roads had already been donated to the municipality is not known.

(5)

On the western side of the private road is a vacant lot with an area of 16,071 square meters offered for sale by its owner extending also from Bulac Road to Malhacan Road.

(6)

Bulac road, a municipal road with a width of about 6 to 7 meters and all the nearby subdivision roads are obviously very poorly developed and main-tained, and are in dire need of repair. Like the Malhacan Road, Bulac road extends from the McArthur Highway with exit to North Diversion Road.

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The Sketch Plan (Rollo, p. 26 or p. 97) clearly and conclusively shows that petitioner does not need this strip of land as a private road. The Sketch Plan clearly shows that petitioner's factory site is adjacent to Bulac Road which has a width of about seven meters, more or less. Petitioner can use Bulac Road in reaching McArthur Highway on the west or in reaching the Manila North Expressway on the east for the purpose of transporting its products. Petitioner does not need to go to Malhacan Road via this so called 'private road' before going to McArthur Highway or to the Manila North Expressway. Why should petitioner go first to Malhacan Road via this so called private road before going to McArthur Highway or to the Manila North Expressway when taking the Bulac Road in going to McArthur Highway or to the Manila North Expressway is more direct, nearer and more advantageous. Hence, it is beyond doubt that petitioner acquired this strip of land for the storage of its heavy equipments and various finished products and for growth and expansion and never to use it as a private road. This is the very reason why petitioner filed an application with the Office of the Municipal Mayor of Meycauayan, Bulacan to fence with hollow blocks this strip of land.

Third, We will determine whether there is a genuine necessity to expropriate this strip of land for use as a public road.

We hereby quote a relevant part of the Special Committee's Report dated March 10, 1976, which is as follows:

OBSERVATION OF COMMITTEE

From the foregoing facts, it appears obvious to this Special Committee that there is no genuine necessity for the Municipality of Meycauayan to expropriate the aforesaid property of the Philippine Pipes and Merchandizing Corporation for use as a public road. Considering that in the vicinity there are other available roads and vacant lot offered for sale situated similarly as the lot in question and lying idle, unlike the lot sought to be expropriated which was found by the Committee to be badly needed by the company as a site for its heavy equipment after it is fenced together with the adjoining vacant lot, the justification to condemn the same does not appear to be very imperative and necessary and would only cause unjustified damage to the firm. The desire of the Municipality of Meycauayan to build a public road to decongest the volume of traffic can be fully and better attained by acquiring the other available roads in the vicinity maybe at lesser costs without causing harm to an establishment doing legitimate business therein. Or, the municipality may seek to expropriate a portion of the vacant lot also in the vicinity offered for sale for a wider public road to attain dicongest (sic) of traffic because as observed by the Committee, the lot of the Corporation sought to be taken will only accommodate a one-way traffic lane and therefore, will not suffice to improve and decongest the flow of traffic and pedestrians in the Malhacan area. xxx.

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It must be noted that this strip of land covered by Transfer Certificates of Titles Nos. 215165 and 37879 were acquired by petitioner from Dr. Villacorta. The lot for sale and lying idle with an area of 16,071 square meters which is adjacent and on the western side of the aforesaid strip of land and extends likewise from Bulac Road to Malhacan Road belongs also to Dr. Villacorta. This lot for sale and lying idle is most ideal for use as a public road because it is more than three (3) times wider that the said strip of land.

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Since there is another lot ready for sale and lying idle, adjacent and on the western side of the strip of land, and extending also from Malhacan Road to Bulac Road and most ideal for a public road because it is very much wider than the lot sought to be expropriated, it seems that it is more just, fair, and reasonable if this lot is the one to be expropriated." (Rollo, pp. 22-26)

The petitioner objects to the appellate court's findings contending that they were based on facts obtaining long before the present action to expropriate took place. We note, however, that there is no evidence on record which shows a change in the factual circumstances of the case. There is no showing that some of the six other available cross roads have been closed or that the private roads in the subdivision may not be used for municipal purposes. What is more likely is that these roads have already been turned over to the government. The petitioner alleges that surely the environmental progress during the span of seven years between the first and second attempts to expropriate has brought about a change in the facts of the case. This allegation does not merit consideration absent a showing of concrete evidence attesting to it.

There is no question here as to the right of the State to take private property for public use upon payment of just compensation. What is questioned is the existence of a genuine necessity therefor.

As early as *City of Manila v. Chinese Community of Manila* (40 Phil. 349) this Court held that the foundation of the right to exercise the power of eminent domain is genuine necessity and that necessity must be of a public character. Condemnation of private property is justified only if it is for the public good and there is a genuine necessity of a public character. Consequently, the courts have the power to inquire into the legality of the exercise of the right of eminent domain and to determine whether there is a genuine necessity therefor (*Republic v. La Orden de PP. Benedictos de Filipinas*, 1 SCRA 646; *J.M. Tuason & Co., Inc. v. Land Tenure Administration*, 31 SCRA 413).

In the recent case of *De Knecht v. Bautista*, (100 SCRA 660) this court further ruled that the government may not capriciously choose what private property should be taken. Citing the case of *J.M. Tuason & Co., Inc. v. Land Tenure Administration* (supra), the Court held:

"xxx With due recognition then of the power of Congress to designate the particular property to be taken and how much thereof may be condemned in the exercise of the power of expropriation, it is still a judicial question whether in the exercise of such competence, the party adversely affected is the victim of partiality and prejudice. That the equal protection clause will not allow." (At p. 436)

There is absolutely no showing in the petition why the more appropriate lot for the proposed road which was offered for sale has not been the subject of the petitioner's attempt to expropriate assuming there is a real need for another connecting road.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The questioned resolution of the respondent court is AFFIRMED.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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