

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CRISTINA DE KNECHT AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 87335. February 12, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The issue posed in this case is whether an expropriation proceeding that was determined by a final judgment of this Court may be the subject of a subsequent legislation for expropriation.

On February 20, 1979 the Republic of the Philippines filed in the Court of First Instance (CFI) of Rizal in Pasay City an expropriation proceedings against the owners of the houses standing along Fernando Rein-Del Pan streets among them Cristina De Knecht (de Knecht for short) together with Concepcion Cabarrus, and some fifteen other defendants, docketed as Civil Case No. 7001-P.

On March 19, 1979 de Knecht filed a motion to dismiss alleging lack of jurisdiction, pendency of appeal with the President of the Philippines, prematurity of complaint and arbitrary and erroneous valuation of the properties. On March 29, 1979 de Knecht filed an ex parte urgent motion for the issuance by the trial court of a restraining order to restrain the Republic from proceeding with the taking of immediate possession and control of the property sought to be condemned. In June, 1979 the Republic filed a motion for the issuance of a writ of possession of the property to be expropriated on the ground that it had made the required deposit with the Philippine National Bank (PNB) of 10% of the amount of compensation stated in the complaint. In an order dated June 14, 1979 the lower court issued a writ of possession authorizing the Republic to enter into and take possession of the properties sought to be condemned, and created a Committee of three to determine the just compensation for the lands involved in the proceedings.

On July 16, 1979 de Knecht filed with this Court a petition for certiorari and prohibition docketed as G.R. No. L-51078 and directed against the order of the lower court dated June 14, 1979 praying that the respondent be commanded to desist from further proceeding in the expropriation action and from implementing said order. On October 30, 1980 this Court rendered a decision, the dispositive part of which reads as follows:

"WHEREFORE, the petition for certiorari and prohibition is hereby granted. The order of June 14, 1979 authorizing the Republic of the Philippines to take or enter upon the possession of the properties sought to be condemned is set aside and the respondent Judge is permanently enjoined from taking any further action on Civil Case No. 7001-P, entitled 'Republic of the Philippines vs. Concepcion Cabarrus Vda. de Santos, et al.' except to dismiss said case." [1]

On August 8, 1981 defendants Maria Del Carmen Roxas Vda. de Elizalde, Francisco Elizalde and Antonio Roxas moved to dismiss the expropriation action in compliance with the dispositive portion of the aforesaid decision of this Court which had become final and in order to avoid further damage to same defendants who were denied possession of their properties. The Republic filed a manifestation on September 7, 1981 stating, among others, that it had no objection to the said motion to dismiss as it was in accordance with the aforesaid decision.

On September 2, 1983, the Republic filed a motion to dismiss said case due to the enactment of the Batas Pambansa Blg. 340 expropriating the same properties and for the same purpose. The lower court in an order of September 2, 1983 dismissed the case by reason of the enactment of the said law. The motion for reconsideration thereof was denied in the order of the lower court dated December 18, 1986.

De Knecht appealed from said order to the Court of Appeals wherein in due course a decision was rendered on December 28, 1988,[2] the dispositive part of which reads as follows:

"PREMISES CONSIDERED, the order appealed from is hereby SET ASIDE. As prayed for in the appellant's brief another Order is hereby issued dismissing the expropriation proceedings (Civil Case No. 51078) before the lower court on the ground that the choice of Fernando Rein-Del Pan Streets as the line through which the Epifanio de los Santos Avenue should be extended is arbitrary and should not receive judicial approval.

No pronouncements as to costs."[3]

Hence the Republic filed the herein petition for review of the aforestated decision whereby the following issues were raised:

"I

WHETHER OR NOT THE ENACTMENT OF BATAS PAMBANSA BLG. 340 IS THE PROPER GROUND FOR THE DISMISSAL OF THE EXPROPRIATION CASE. (PROPERLY PUT, WHETHER OR NOT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING CIVIL CASE NO. 7001-P UPON JUDICIAL NOTICE OF B. P. BLG. 340).

II

WHETHER OR NOT THE DPWH'S "CHOICE" OF LAND TO BE EXPROPRIATED IS STILL AN ISSUE UNDER THE CIRCUMSTANCES, SAID "CHOICE" HAVING BEEN SUPPLANTED BY THE LEGISLATURE'S CHOICE.

III

WHETHER OR NOT THE LAW OF THE CASE THEORY SHOULD BE APPLIED TO THE CASE AT BAR."[4]

The petition is impressed with merit. There is no question that as early as 1977, pursuant to the Revised Administrative Code, the national government, through the Department of Public Works and Highways began work on what was to be the westward extension of Epifanio de los Santos Avenue (EDSA) outfall (or outlet) of the Manila and suburbs flood control and drainage project and the Estero Tripa de Gallina. These projects were aimed at: (1) easing traffic congestion in the Baclaran and outlying areas; (2) controlling flood by the construction of the outlet for the Estero Tripa de Gallina (which drains the area of Marikina, Pasay, Manila and Parañaque); and (3) thus completing the Manila Flood Control and Drainage Project.

So the petitioner acquired the needed properties through negotiated purchase starting with the lands from Taft Avenue up to Roxas Boulevard including the lands in Fernando Rein-Del Pan streets. It acquired through negotiated purchases about 80 to 85 percent of the lands involved in the project whose owners did not raise any objection as to arbitrariness on the choice of the project and of the route. It is only with respect to the remaining 10 to 15 percent along the route that the petitioner cannot negotiate through a sales agreement with a few land owners, including de Knecht whose holding is hardly 5% of the whole route area. Thus, as above related on February 20, 1979 the petitioner filed the expropriation proceedings in the Court of First Instance.

There is no question that in the decision of this Court dated October 30, 1980 in *De Knecht vs. Bautista*, G. R. No.

L-51078, this Court held that the "choice of the Fernando Rein-Del Pan streets as the line through which the EDSA should be extended to Roxas Boulevard is arbitrary and should not receive judicial approval." [5] It is based on the recommendation of the Human Settlements Commission that the choice of Cuneta street as the line of the extension will minimize the social impact factor as the buildings and improvement therein are mostly motels. [6]

In view of the said finding, this Court set aside the order of the trial court dated June 14, 1979 authorizing the Republic of the Philippines to take possession of the properties sought to be condemned and enjoined the respondent judge from taking any further action in the case except to dismiss the same.

Said decision having become final no action was taken by the lower court on the said directive of this Court to dismiss the case. Subsequently B. P. Blg. 340 was enacted by the Batasang Pambansa on February 17, 1983. On the basis of said law petitioner filed a motion to dismiss the case before the trial court and this was granted.

On appeal by de Knecht to the Court of Appeals the appellate court held that the decision of the Supreme Court having become final, the petitioner's right as determined therein should no longer be disturbed and that the same has become the law of the case between the parties involved. Thus, the appellate court set aside the questioned order of the trial court and issued another order dismissing the expropriation proceedings before the lower court pursuant to the ruling in De Knecht case.

While it is true that said final judgment of this Court on the subject becomes the law of the case between the parties, it is equally true that the right of the petitioner to take private properties for public use upon the payment of the just compensation is so provided in the Constitution and our laws. [7] Such expropriation proceedings may be undertaken by the petitioner not only by voluntary negotiation with the land owners but also by taking appropriate court action or by legislation [8]

When on February 17, 1983 the Batasang Pambansa passed B.P. Blg. 340 expropriating the very properties subject of the present proceedings, and for the same purpose, it appears that it was based on supervening events that occurred after the decision of this Court was rendered in De Knecht in 1980 justifying the expropriation through the Fernando Rein-Del Pan Streets.

The social impact factor which persuaded the Court to consider this extension to be arbitrary had disappeared. All residents in the area have been relocated and duly compensated. Eighty percent of the EDSA outfall and 30% of the EDSA extension had been completed. Only private respondent remains as the solitary obstacle to this project that will solve not only the drainage and flood control problem but also minimize the traffic bottleneck in the area.

The Solicitor General summarizing the situation said —

"The construction and completion of the Metro Manila Flood Control and Drainage Project and the EDSA extension are essential to alleviate the worsening traffic problem in the Baclaran and Pasay City areas and the perennial flood problems. Judicial notice may be taken that these problems bedevil life and property not only in the areas directly affected but also in areas much beyond. Batas Pambansa Blg. 340 was enacted to hasten 'The Project' and thus solve these problems, and its implementation has resulted so far in an 80% completion of the EDSA outfall and a 30% completion of the EDSA extension, all part of 'The Project'.

'This instant case stands in the way of the final solution of the above-mentioned problems, solely because the single piece of property 'occupied' by De Knecht, although already expropriated under B. P. Blg. 340, is the only parcel of land where Government engineers could not enter due to the 'armed' resistance offered by De Knecht, guarded and surrounded as the lot is perennially by De Knecht's fierce private security guards. It may thus be said that De Knecht, without any more legal interest in the land, singlehandedly stands in the way of the completion of 'The Project' essential to the progress of Metro Manila and surrounding areas. Without the property she persists in occupying and without any bloodletting, the EDSA outfall construction on both sides

of the said property cannot be joined together, and the flood waters of Pasay, Parañaque and Marikina — which flow through the Estero Tripa de Gallina will continue to have no way or outlet that could drain into Manila Bay. Without said property, the EDSA extension, already 30% completed, can in no way be finished, and traffic will continue to clog and jam the intersections of EDSA and Taft Avenue in Baclaran and pile up along the airport roads.

In sum, even in the face of BP 340, De Knecht holds the Legislative sovereign will and choice inutile.”[9]

The Court finds justification in proceeding with the said expropriation proceedings through the Fernando Rein-Del Pan streets from EDSA to Roxas Boulevard due to the aforesaid supervening events after the rendition of the decision of this Court in De Knecht.

B. P. Blg. 340 therefore effectively superseded the aforesaid final and executory decision of this Court. And the trial court committed no grave abuse of discretion in dismissing the case pending before it on the ground of the enactment of B. P. Blg. 340.

Moreover, the said decision, is no obstacle to the legislative arm of the Government in thereafter (over two years later in this case) making its own independent assessment of the circumstances then prevailing as to the propriety of undertaking the expropriation of the properties in question and thereafter by enacting the corresponding legislation as it did in this case. The Court agrees in the wisdom and necessity of enacting B.P. Blg. 340. Thus the anterior decision of this Court must yield to this subsequent legislative fiat.

WHEREFORE, the petition is hereby GRANTED and the questioned decision of the Court of Appeals dated December 28, 1988 and its resolution dated March 9, 1989 are hereby REVERSED and SET ASIDE and the order of Branch III of the then Court of First Instance of Rizal in Pasay City in Civil Case No. 7001-P dated September 2, 1983 is hereby reinstated without pronouncement as to costs.

SO ORDERED.

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

Cruz, J., see concurring opinion.

[1] Page 64, Rollo.

[2] Madame Justice Gloria C. Paras, ponente, concurred in by Associate Justices Vicente V. Mendoza and Conrado T. Limcaoco.

[3] Page 69, Rollo.

[4] Pages 30-31, Rollo.

[5] 100 SCRA 660, 671. (1980)

[6] Supra, pages 667 to 671.

[7] Section 2, Article IV, 1973 Constitution; Section 9, Article III, 1987 Constitution; Rule 67, Rules of Court.

[8] J.M. Tuason & Co., Inc. vs. Land Tenure Administration, 33 SCRA 882 (1970).

[9] Pages 167 to 168, Rollo.

CONCURRING OPINION

CRUZ, J.:

While the ponencia is plain enough, I wish to make it even plainer that B.P. Blg. 340 is not a legislative reversal of our finding in *De Knecht v. Bautista*, 100 SCRA 660, that the expropriation of the petitioner's property was arbitrary. As Justice Gancayco clearly points out, supervening events have changed the factual basis of that decision to justify the subsequent enactment of the statute. If we are sustaining that legislation, it is not because we concede that the lawmakers can nullify the findings of the Court in the exercise of its discretion. It is simply because we ourselves have found that under the changed situation, the present expropriation is no longer arbitrary.

I must add that this decision is not a reversal either of the original *De Knecht* case, which was decided under a different set of facts.

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