

**ANTONIO TUASON, JR., ETC., PLAINTIFF AND APPELLEE, VS.
AUGUSTO DE ASIS, DEFENDANT AND APPELLANT. ANTONIO TUASON
JR., ETC., PLAINTIFF AND APPELLANT, VS. DOLORES VDA. DE
EARNSHAW,...**

G.R. Nos. 11319-20; 13504; 13507-08. February 29, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

These five cases involve lots comprised in two large parcels of land, one belonging to plaintiff Antonio Tuason, Jr., and the other to plaintiff Nieves Tuason de Barreto, subdivided into a number of lots and leased to the defendants and their predecessors-in-interest for a period ranging from 25 to 33 years, the lease contracts all expiring on December 31, 1953. For these reasons, in passing upon these five cases now before us on appeal, we are consolidating them in one single decision, specially since many and the most important facts and questions of law involved in these five cases are similar, if not identical.

Defendant Augusto de Asis is occupying Lot No. 15 with an area of 608.30 square meters, having an assessed value of P19,570". Defendant Dolores Vda. de Earnshaw occupies Lot No. 26, with an area of 2,284.10 square meters, assessed at P24,620. Defendant Dely Cacho is holding as tenant Lot No. 16-B, with an area of 829.4 square meters, assessed at P13,220. Defendant Emeterio Barcelon is occupying Lot No. 9-B-3-B, with an area of 4,122.80 square meters, with an assessed value of P59,050. And defendant Meliton Limlingan occupies Lot No. 7—B-3-S—3-B-9, with an area of 1,419.2 square meters, assessed at 16,973. The first four lots form part of the parcel situated in Sta. Mesa, Sampaloc, Manila, belonging to Antonio Tuason, Jr., while the last Lot No. 7-B-3-E-3-B-9 is a part of the parcel located at Sta. Mesa Boulevard, Manila, owned by plaintiff Nieves Tuason de Barreto.

Shortly before the expiration of the contracts of lease, the two owners-lessors notified their lessees as follows: That they (lessees) were to vacate the premises respectively occupied by them on or before December 31, 1953, or if they wished, to either buy said lots or enter into new contracts of lease at an increased rent; Augusto de Asis may purchase his lot at P65.00 per square meter or lease the same for one year at a rental of P1,957.00 plus the real estate tax which amounted to P293.53 a year; Dolores A. Vda. de Earnshaw to either buy her lot at P25.00 per square meter or lease the same for one year at a rental of P2,462.00 per annum plus the realty tax of P369.30 per annum; Dely Cacho to buy the lot at P35.00 per square meter or lease the same for a year at a rental of P1,322.00 per annum plus the realty tax of P198.30; Emeterio Barcelon to buy his lot at P35.00 per square meter, payable in cash or 20% down and the balance to be paid in 60 consecutive months with interest at 10% per annum, or lease the same for one year from January 1, 1954, at an annual rental of P5,905.00, plus the realty tax of P885.75, and that should Barcelon not buy the property or remove his house therefrom by December 31, 1953, it was to be understood that he was agreeable to the lease under the terms specified; and Meliton Limlingan to buy the lot at P30.00 per square meter or lease the same for one year from January 1, 1954, at an annual rental of P1,697.30, plus the realty tax amounting to P254.60.

All the defendants failed or refused to vacate the lots occupied by them; neither did they accede to the proposal to buy or lease the same, they claiming that although they were willing to make the purchase or enter into a new contract of lease, the amounts fixed for the sale or lease were unreasonable and excessive. As a result, plaintiffs Antonio Tuason, Jr. and Nieves Tuason de Barreto filed against them separate actions of illegal detainer in the Municipal Court of Manila. In all five cases, judgments were rendered in favor of plaintiffs.

On appeal to the Court of First Instance of Manila, the first three cases were decided by Judge Bienvenido A. Tan, who ordered appellants Augusto de Asis, Dolores Vda. de Earnshaw, and Dely Cacho to vacate the premises respectively occupied by them and to remove their improvements thereon. In the case of De Asis, the latter was ordered to pay the plaintiff by way of damages for the use and occupation of the premises the sum of P163.10 monthly, plus the yearly tax of P298.55, from January 1, 1954 until he left the premises, plus costs. In the case of Earnshaw, she was ordered to pay plaintiff a monthly rental of P205.17, from January 1, 1954, until possession was restored to plaintiff, plus the yearly realty tax of P369.30, and the further sum of P76.22 unpaid balance of realty tax for the year 1953, plus costs. Dely Cacho and her husband Antonio Castillejos were ordered to pay by way of damages for the use and occupation of the premises the sum of P110.17 a month, plus the yearly tax of P198.30, from January 1, 1954 until they vacated the lot, plus costs.

In the case of Emeterio Barcelon, Judge Bonifacio Ysip before whose sala the case was heard, rendered a decision, the dispositive part of which reads as follows:

"En vista de las consideraciones arriba expuestas, este Tribunal dicta sentencia alternativa del tenor siguiente: (1) que el demandado pague el demandante si quisiese optar por la compra del terreno arrendado por dicho demandado, al precio exigido por el demandante a razon de P35.00 por metro cuadrado, segun los terminos y condicione del documento Exh. A; o (2) si el demandado no estuviere dispuesto en la compra del terreno arrendado por el al precio arriba mencionado, dicho demandado debe remover todas las mejoras introducidas por el y vacar la propiedad entregando la posesion al demandante dentro del plazo de ciento veinte (120) dias a contar desde que esta decision quede firme y ejecutoria; condena ademas al demandado a pagar al demandante la cantidad de P492.08 mensualmente por el uso y ocupacion de la propiedad desde el mes de Enero de 1954 hasta la entrega de la posesion al demandante, tal como ha sido fijada por el Juzgado Inferior; y al pago de las costas del presente juicio."

In the case of Meliton Limlingan, heard in the sala of Judge Gregorio Narvasa, the latter rendered decision, the dispositive part of which reads as follows:

"Wherefore, judgment is hereby rendered, sentencing defendant to pay to plaintiff, beginning January 1, 1954, a yearly rental of P207.58 plus an amount commensurate with the increase of the assessment of the land, together with the annual tax thereon, payable in advance; otherwise, he shall be ousted from the land, and shall be liable, for the amount of the rents due. Defendant shall pay the costs."

All the five cases were appealed to the Court of Appeals, the first three by defendants Asis, Earnshaw, and Cacho; and the last two by plaintiffs Antonio Tuason and Nieves Tuason and by defendant Barcelon.

In the first three cases, after the Court of Appeals had rendered judgment in favor of the appellee, in the cases against Asis and Earnshaw, but before the judgment became final) and before it could decide the case against Dely Cacho, all three appellants filed identical motions to suspend further proceedings, invoking the provisions of Republic Act No. 1162, as amended by Republic Act No. 1599. Acting on said motions and the opposition of appellee who vigorously raised the question of constitutionality of the law, the Court of Appeals in separate resolutions certified the three cases to this Tribunal. We, however, returned the cases to the Court of Appeals by resolution of October 23, 1956, reading as follows:

"Considering that the number of houses in appellee's land is a question of fact; that, unless such number is

ascertained, the applicability of Republic Act 1599 to these cases cannot be determined; and that if Republic Act No. 1599 is not applicable, there is no call to pass upon its constitutionality; the Court resolved to order that the records of these cases be returned to the Court of Appeals for ascertainment of the facts that would determine whether Republic Act No. 1599 is applicable."

In pursuance of our resolution, the Court of Appeals appointed a Commissioner to ascertain the facts indicated by us. After receiving the Commissioner's report, the Court of Appeals again elevated the said three cases to this Tribunal by its resolution of December 26, 1956, the pertinent portion of which reads:

"Considerando que estos hechos contenidos en el informe del comisionado justifican la aplicacion de las leyes mencionadas, por lo mismo que el Art. 1 de la No. 1599, que enmienda al Art. 1 de la No. 1162, dispone expresamente que se autoriza la expropiation no solamente las haciendas, sino que tambien los terrenos que anteriormente formaban parte de las mismas, que se dieron en arrendamiento por un period no menor de lo años siempre y cuando que haya en dichos terrenos nu menos de 50 casas; y considerando ademas que aparte de la inaplicabilidad se ataca tambien la constitucionalidad de las leyes aqui disputadas;

"Por la presente se resuelve devolver, como por la presente devuelven, los expedientes de estas causa a la Hon. Corte Suprema para su final resolucion y adjudicacion."

In the other two cases, Barcelon and Limlingan also asked the Court of Appeals to suspend further proceedings, equally invoking the provisions of Republic Act No. 1162 as amended by Republic Act No. 1599; so, both cases were elevated by the Court of Appeals to us.

On this question of suspension of court proceedings pursuant to the provisions of Republic Act No. 1162, as amended by Republic Act No. 1599, we have already had occasion to rule on the same. In the case of *Teresa Realty, Inc. vs. State Construction and Supply Co.*, 105 Phil., 353, speaking through Mr. Justice Angelo Bautista, we said:

"One of the issues raised refers to the denial by the trial court of the motion filed by defendants to suspend the present ejectment case invoking in their favor the provisions of Republic Act No. 1162, particularly Section 5, which provides that 'From the approval of this Act, and until the expropriation herein provided, no ejectment proceedings shall be instituted or prosecuted against any tenant or occupant of any landed: estates or haciendas herein authorized to be expropriated if he pays his current rentals.' It is claimed that said Act was approved on June 18, 1954 and since this action was instituted on March 31, 1954, and remained pending when said Act was approved, it was the duty of the court to suspend the case in order that the purpose of said Act may be carried out which is to expropriate the land and subdivide it into small lots for sale at cost to its bona fide tenants or occupants.

"Appellee, on the other hand, contends that said Act is inapplicable to the present case for the reason that there is no evidence showing that the property in question forms part of a landed estate within the meaning of said Act, and even if it were so, still the act cannot apply because there is no showing that the Government has ever taken any step relative to the expropriation of the property.

"We are inclined to agree to appellee's contention for it cannot be supposed that Congress in approving Republic Act No. 1162 had intended to actually suspend the prosecution of an ejectment proceeding even before any definite step or action is taken by the Government relative to the expropriation of the property, for to hold otherwise would be to deprive a landlord of his right to protect his interest by merely claiming that the Government may someday act on the matter thereby placing him at the mercy of an unscrupulous tenant. While it is laudable and proper that a landed estate be expropriated in order that it may be subdivided and sold to bona fide tenants or occupants, the same should be undertaken in a manner not repugnant to law or to the Constitution. In other words, the suspension of an ejectment proceeding should only be made after the Government has taken step or action relative to the expropriation of the property in accordance with the

procedure laid down, by law, otherwise the action would place the interest of the landlord in jeopardy. Such cannot be the intendment of the law. As aptly explained by the Court of Appeals in several cases involving the applicability of Republic Act No. 1162, to which we agree, 'until, such a proceeding is actually commenced the right of a landowner to prosecute an action for ejectment under existing laws cannot be deemed suspended under section 5 of Republic Act No. 1162. To hold otherwise, that is, to deprive a landlord of his remedy because of the possibility that the Government may someday, in the near or distant future, act to expropriate his property, would be to place him at the mercy of a thoroughly uncertain contingency. * * * We think that the prohibition against the institution or prosecution of ejectment proceedings applies only when expropriation has actually commenced.' (Barcelon vs. Isip, CA-G.R. Nos. 13650-R, Oct. 14, 1954; see also Cacho vs. Tan, CA-G.R. Nos. 13888-R to 13891-R, Dec. 10, 1954; Antonio Tuason, Jr. vs. Narvasa, CA-G.R. No. 14479-R, July 30, 1955).

"In the case of Republic vs. Cirilo P. Baylosis, 96 Phil., 461, this Court, speaking of the effect of an attempt to expropriate certain property by the government on the right of a landlord to protect his interest, made the following pronouncement:

'* * * We hold that mere notice of the intention of the Government to expropriate lands in the future does not and cannot bind the landowner and prevent him from dealing with his property. To bind the land to be expropriated and the owner thereof, the expropriation must be commenced in court and even then we are not certain that the owner may not deal with his property, thereafter, mortgage or even sell it if he can find persons who would step into his shoes and deal with the Government, either resist the expropriation and remain with what, is left of the property if the entire property is not needed by the Government.'

"It is obvious from the foregoing that the trial court did not err in holding that Republic Act No. 1162 is inapplicable to this case for there is no showing that an expropriation proceeding has actually been commenced by the Government which would give defendants the right to demand the suspension of the ejectment case within the meaning of said act."

In all these five cases now before us on appeal, there is no showing that expropriation proceedings by the Government have actually been commenced. Consequently, the two laws invoked are not applicable and there is or was no reason to suspend court proceedings.

In the case against Limlingan, Judge Narvasa, citing the case of Roman Catholic Archbishop of Manila vs. Ver, 73 Phil. 363, did not order him to vacate the premises, but allowed him to continue with the lease at a rental of P207.58, plus an amount commensurate with the increase in the assessment value, plus the annual tax. In other words, his Honor did not find Limlingan in default, and in effect held that the contract of lease was extended. In the other four cases, appellants Asis, Earnshaw, Cacho and Barcelon claim that the trial court erred in not considering the contracts of lease as extended as long as they were willing to pay a reasonable rental.

This theory of extension we find untenable. In the case of Archbishop of Manila vs. Ver, supra, the lease was from year to year and this Court said that in such a case, the lessor may not terminate the lease because of the failure of the lessee to pay an exorbitant rental demanded by the lessor, based on alleged increase in the assessed value of the land. However, in the later case of Co Tiamco vs. Diaz, 75 Phil., 672, this Tribunal held that where the contract of lease fixes a term, upon the expiration of the period, the lessor may consider the lease terminated and eject the lessee, citing Articles 1565 of the Old Civil Code, which finds its counterpart in Article 1669 of the New Civil Code. Inasmuch as in these five cases, the contracts of lease provided for the termination of the same on December 31, 1953, and before the said termination, the lessors asked the lessees to vacate the premises, although giving them the option to either buy their respective lots or lease them for one year, at amounts fixed by said lessors, the lessors Antonio Tuason and Nieves Tuason were authorized to eject the lessees, for the reason that the latter failed or refused to either buy or lease the lots occupied by them, on the terms specified by the

owners.

In the case of *Barcelon*, G. R. No. L-13508, where the trial court gave him the option to buy his lot at the rate of P35.00 per square meter, appellant Antonio Tuason claims, and correctly, that his offer to sell the lot at P35.00 per square meter was good up to December 31, 1953, which price was the prevailing market value of the property at the time, and that it would be unfair to compel him to sell the same three or four years later at the same price. We find merit in that contention. As we have already said, there was no extension of the contract of lease beyond December 31, 1953, and the owner was authorized to eject the lessee thereafter. The offer to sell the lot to *Barcelon* at P35.00 per square meter was made provided he accepted the offer on or before December 31, 1953, which *Barcelon* failed to accept. Plaintiff's letter, Exhibit A, to *Barcelon* contains this statement: "Should you not buy the property nor remove the house by December 31, 1953, it is understood that you agree to lease the property." Because of this, and because of the failure of *Barcelon* to make the purchase or remove his house by December 31, 1953, he was understood to have agreed to lease the property for one year upon the terms set by the owner.

The trial court in its alternative judgment said that *Barcelon*, should he refuse to buy the lot, should vacate the same and pay the sum of P492.08 as monthly rental from January 1, 1954 until he left the property. Appellant Antonio Tuason claims that the trial court erred in not including therein the payment of realty tax. Again, we find this contention to be correct, because adding this realty tax to the rental, the total would still be within the 12 per cent allowed by the law.

With respect to the case of *Limlingan*, G. R. No. L-13504, in view of our holding that in neither of these five cases was there an extension of the lease contract, the trial court erred in allowing *Limlingan* to continue leasing the property by paying a yearly rental of P207.58, plus an amount commensurate with the increase of the assessment of the lot, together with the annual realty tax. He should have been ordered to vacate the property and to pay a rental from January 1, 1954 up to the time when he actually vacates the premises, at the rate fixed by plaintiff Nieves Tuason, namely, P1,697.40 a year, plus the realty tax amounting to P264.00, the total of which is still within the 12 per cent of the assessed value allowed by law. In this connection, reference may be made to our decision in the case of *Teresa Realty vs. State Construction and Supply Co.*, *supra*, where we said:

"It should be noted that defendants have occupied the property under lease for thirty years or more until 1958 when plaintiff, upon the expiration of the contract of lease, made a re-appraisal of the rental and fixed a new rate on the basis of 12 per cent of the current assessed value of the property. This rental can hardly be considered excessive considering that Section 3 of Republic Act 1162 expressly provides that 'in the event of lease, the rentals that may be charged by the Government shall not exceed twelve percent per annum of the assessed valuation of the property lease.' This is an express recognition that a rental not exceeding 12 percent per annum of the assessed value of the property is not excessive. Indeed, defendants cannot pretend to pay the same or similar rentals to what they had paid during the 30-year period covered by their contract of lease. It is a matter of general knowledge that the values of real estate have steadily gone up with the passing of the years and it is but fair that their productivity be correspondingly increased. The error assigned has therefore no merit."

In all these five cases, the rentals fixed by the owners, including the realty taxes, would, according to our computation, only amount to about 11½ of the assessed value of the lots involved; consequently, they are reasonable and proper.

In conclusion, we hold that in a contract of lease for a certain period, when the term expires, the lessor may terminate the lease and order the lessee to vacate the premises; that where the lessor makes an offer to the lessee to purchase the property on or before the termination of the lease, and the lessee fails to accept the offer or make

the purchase, on time, then the lessee loses his right to buy the property later on the terms and conditions set in the offer; third, that there may be an implied extension of a lease where the same is not for a fixed period but from year to year, and if at the end of the year, the owner demands a rental which is exorbitant, in that case, the courts may determine what is a reasonable rental and allow the lessee to continue with the lease. It would be different if at the end of the year, the owner instead of demanding an increased and exorbitant rental, insists that the lessee vacates the premises. Fourth, that Republic Act No. 1162, as amended by Republic Act No. 1599, about the suspension of proceedings for the ejectment of tenants has no application to a case where expropriation proceedings by the Government have not been commenced.

In view of the foregoing, the decision in the first three cases, G. R. Nos. L-11319, L-11320, and L-13507 against Asis, Earnshaw and Cacho, respectively, are hereby affirmed. In the fourth case, G. R. No. L-13508, against Barcelon, the appealed decision is set aside in so far as it allows defendant Barcelon to buy his lot at the rate of P35.00 a square meter and modified as to the amount of rental that he has to pay from January 1, 1954 until he vacates the premises; in addition to the rental fixed by the trial court at P492.08, Barcelon will pay the realty tax. In the fifth case against Limlingan, G. R. No. L-13504, the appealed decision is hereby reversed in so far as it allows defendant Limlingan to continue with the lease. The rental to be paid by him from January 1, 1954 until he vacates the premises will be P1,697.30, plus the annual realty tax amounting to P254.60. All five defendants will pay the costs.

Paras, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, Barrera and Gutierrez David, JJ., concur.

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