

ALEX JUMAWAN AND ROGELIO JUMAWAN, PETITIONERS, VS. HON. DIOMEDES M. EVIOTA, INCUMBENT PRESIDING JUDGE OF RTC, BRANCH 32, SURIGAO CITY, AND THE PEOPLE OF THE PHILIPPINES, RESPOND...

G.R. Nos. 85512-13. July 28, 1994

Ponente: MENDOZA, J.

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MENDOZA, J.:

In cases[1] previously decided by it, this Court held that P.D. No. 772 applies only to squatting in urban communities. The question in these cases is whether in a prosecution for violation of P.D. No. 772, it is necessary to allege that the land, subject of squatting, is found in an urban community. For reasons to be hereafter explained, we hold that such allegation is unnecessary, the fact that the land is in an urban community not being an essential ingredient of the offense punished under the law. Consequently, the absence of allegation to that effect does not render the information vulnerable to a motion to quash.

In two separate informations filed with the Regional Trial Court (Branch XXXII) of Surigao City petitioners Alex Jumawan and Rogelio Jumawan were charged with violation of P.D. No. 772. The informations alleged:

That about or during the month of September, 1986 in barangay San Jose, municipality of Dinagat, Surigao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, taking advantage of the absence and tolerance of the land--owner Teresa O. Baluyos, occupied and took possession of the residential lot owned by said Teresa O. Baluyos against her will, then and there willfully and unlawfully constructed a residential house in said lot thus depriving her of its possession and use thereof to the damage and prejudice of the owner in the sum of P6,000.00.[2]

Petitioners moved to quash the information on the ground that the facts alleged did not constitute an offense. Petitioners argued that Barangay San Jose, in the Municipality of Dinagat, Surigao del Norte, in which the land in question is found, is not an urban community and, therefore, they could not be held liable under P.D. No. 772. In support of their contention petitioners cited the statement in *People v. Echavez*,[3] and reiterated in *Bernardo v. People*,[4] that P.D. No. 772 applies only to lands found in urban communities.

In its order dated July 13, 1988, the trial court deferred resolution of the petitioners' motion pending determination of the nature of the property involved in the cases, the ground for the petitioners' motion not being indubitable.

Petitioners moved for a reconsideration. They contended that the determination of the nature of the property in question could be made solely on the basis of the allegation in the informations that the criminal acts complained of took place in Barangay San Jose, Municipality of Dinagat, Surigao del Norte, which they claimed is a far-flung Barangay in Dinagat Island, 40 nautical miles from the mainland, and that in fact Proclamation No. 391, issued on March 13, 1939 by President Manuel L. Quezon, set aside the Island of Dinagat as a "mineral land reservation." It is claimed that the fact that Barangay San Jose is not an urban community could be judicially taken cognizance of by the court.

In its order of September 29, 1988 the trial court denied petitioners' motion, holding that it was necessary "to determine whether Barangay San Jose, Dinagat, Municipality of Surigao del Norte qualifies as an urban community within the purview of P.D. No. 772."

Hence this petition for certiorari and prohibition to set aside the aforesaid orders of June 13, 1988 and September 29, 1988 of the trial court. Petitioners reiterate the arguments made by them below.

The Solicitor General argues, in behalf of public respondents, that under sec. 1 of P.D. No. 772 it is neither the nature nor location of the land that is controlling but the purpose for which the land illegally occupied by the accused is used, i.e., whether for "residential, commercial, or any other purposes." Hence, the absence of allegation that the land is found in an urban community does not in his view render the informations defective. He further argues that, on the assumption that such allegation is necessary, the statement in the informations that petitioners "occupied and took possession of the residential land owned by Teresa O. Baluyos against her will" sufficiently alleges an essential element of the crime. Additionally, it is contended, the present petition is premature because the trial court did not really deny the petitioners' motions to quash but only held in abeyance their resolution pending determination of the nature of the property in question.

We find the Solicitor General's contention well taken. 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. Sec. 1 of P.D. No. 772 provides:

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.

Thus, a piece of land may be found in a barangay. So long as it is for residential, commercial, or any other purposes, 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. Echavez* 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.

Indeed, the preamble of P.D. No. 772, on which this Court relied for its dictum in the two cases, does not support the view that the law is limited to squatting in urban communities. The preamble reads:

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.

Squatting in urban communities or in centers of population may be a major concern of the Decree but it is not clear it was the only reason for its issuance.

Indeed, the function of a preamble is to state the reason or occasion for making a law or to explain in general terms the policy of the enactment.[5] It may, therefore, be resorted to only when the statute is in itself ambiguous and difficult of interpretation.[6] In the case at bar the Decree is unambiguous. It requires as element of squatting (1) that there be occupation or a taking of possession of property for residential, commercial or any other purposes, and (2) that in occupying or taking possession of the property, the offender did so by force, intimidation or threat or by taking advantage of the absence or tolerance of its owner and against his will. To require that the land be in an urban community or center of population would, therefore, be not to clarify but to add to the elements of the crime as these are enumerated in the Decree.

The informations against petitioners closely track the language of the Decree. It alleges that petitioners, "taking advantage of the absence or tolerance of the land owner Teresa O. Baluyos, occupied and took possession of the residential land of Teresa O. Baluyos against her will, [and] then and there willfully and unlawfully constructed a residential house in said lot thus depriving her of possession and use thereof to the damage and prejudice of the owner." The test of sufficiency of information is whether it enables a person of common understanding to know what the charge against him and the court to render judgment properly. Tested by this standard, the informations in these cases are sufficient in all respects. In truth we have held that a complaint is sufficient if it charges an offense using the language of the statute.[7]

What has been thus far said disposes of petitioners' contention that the informations against them could be resolved on the basis solely of the allegations because the trial court could take judicial notice that Barangay San Jose is "a far flung barangay in the Dinagat Island, 40 nautical miles from the main land." For the question is not whether the land is located in an urban or in a rural area but whether it is for residential, commercial or any other purposes. It is for the purpose of determining this question that the trial court set the cases for hearing. In doing so we think the trial court, far from committing a grave abuse of its discretion, acted prudently.

WHEREFORE, the Petition for Certiorari and Prohibition is DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.
Bellosillo, J., on leave.

[1] *People v. Echavez*, G.R. Nos. L-47757-61, Jan. 28, 1980, 95 SCRA 663; *Bernardo v. People*, G.R. No. L-62114, July 5, 1983, 123 SCRA 365.

[2] Rollo, pp. 16. The information filed against petitioner Alex Jumawan in Criminal Case No. 285 is similar to the information filed in Criminal Case No. 286 against petitioner Rogelio Jumawan save for the allegation regarding damage to the complainant landowner.

[3] *Supra* note 1.

[4] *Supra* note 1.

[5] I-A SUTHERLAND, *STATUTES AND STATUTORY CONSTRUCTION*, sec. 20.03, p. 54 (1972).

[6] *People v. Purisima*, 86 SCRA 542 (1978).

[7] United States v. Salcedo, 4 Phil. 234 (1905).

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