

MUNICIPALITY OF MAKATI, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. SALVADOR P. DE GUZMAN, JR., AS JUDGE RTC OF MAKATI, BRANCH CXLII, ADMIRAL FINANCE CREDITORS CONSORTI...

G.R. Nos. 89898-99. October 01, 1990

Ponente: CORTES, J.

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CORTES, J.:

The present petition for review is an off-shoot of expropriation proceedings initiated by petitioner Municipality of Makati against private respondent Admiral Finance Creditors Consortium, Inc., Home Building System & Realty Corporation and one Arceli P. Jo, involving a parcel of land and improvements thereon located at Mayapis St., San Antonio Village, Makati and registered in the name of Arceli P. Jo under TCT No. S-5499.

It appears that the action for eminent domain was filed on May 20, 1986, docketed as Civil Case No. 13699. Attached to petitioner's complaint was a certification that a bank account (Account No. S/A 265-537154-3) had been opened with the PNB Buendia Branch under petitioner's name containing the sum of P417,510.00, made pursuant to the provisions of Pres. Decree No. 42. After due hearing where the parties presented their respective appraisal reports regarding the value of the property, respondent RTC judge rendered a decision on June 4, 1987, fixing the appraised value of the property at P5,291,666.00, and ordering petitioner to pay this amount minus the advanced payment of P338,160.00 which was earlier released to private respondent.

After this decision became final and executory, private respondent moved for the issuance of a writ of execution. This motion was granted by respondent RTC judge. After issuance of the writ of execution, a Notice of Garnishment dated January 14, 1988 was served by respondent sheriff Silvino R. Pastrana upon the manager of the PNB Buendia Branch. However, respondent sheriff was informed that a "hold code" was placed on the account of petitioner. As a result of this, private respondent filed a motion dated January 27, 1988 praying that an order be issued directing the bank to deliver to respondent sheriff the amount equivalent to the unpaid balance due under the RTC decision dated June 4, 1987.

Petitioner filed a motion to lift the garnishment, on the ground that the manner of payment of the expropriation amount should be done in installments which the respondent RTC judge failed to state in his decision. Private respondent filed its opposition to the motion.

Pending resolution of the above motions, petitioner filed on July 20, 1988 a "Manifestation" informing the court that private respondent was no longer the true and lawful owner of the subject property because a new title over the property had been registered in the name of Philippine Savings Bank, Inc. (PSB). Respondent RTC judge issued an order requiring PSB to make available the documents pertaining to its transactions over the subject property, and the PNB Buendia Branch to reveal the amount in petitioner's account which was garnished by respondent sheriff. In compliance with this order, PSB filed a manifestation informing the court that it had consolidated its ownership over the property as mortgagee/purchaser at an extra-judicial foreclosure sale held on

April 20, 1987. After several conferences, PSB and private respondent entered into a compromise agreement whereby they agreed to divide between themselves the compensation due from the expropriation proceedings.

Respondent trial judge subsequently issued an order dated September 8, 1988 which: (1) approved the compromise agreement; (2) ordered PNB Buendia Branch to immediately release to PSB the sum of P4,953,506.45 which corresponds to the balance of the appraised value of the subject property under the RTC decision dated June 4, 1987, from the garnished account of petitioner; and, (3) ordered PSB and private respondent to execute the necessary deed of conveyance over the subject property in favor of petitioner. Petitioner's motion to lift the garnishment was denied.

Petitioner filed a motion for reconsideration, which was duly opposed by private respondent. On the other hand, for failure of the manager of the PNB Buendia Branch to comply with the order dated September 8, 1988, private respondent filed two succeeding motions to require the bank manager to show cause why he should not be held in contempt of court. During the hearings conducted for the above motions, the general manager of the PNB Buendia Branch, a Mr. Antonio Bautista, informed the court that he was still waiting for proper authorization from the PNB head office enabling him to make a disbursement for the amount so ordered. For its part, petitioner contended that its funds at the PNB Buendia Branch could neither be garnished nor levied upon execution, for to do so would result in the disbursement of public funds without the proper appropriation required under the law, citing the case of *Republic of the Philippines v. Palacio* [G.R. No. L-20322, May 29, 1968, 23 SCRA 899.]

Respondent trial judge issued an order dated December 21, 1988 denying petitioner's motion for reconsideration on the ground that the doctrine enunciated in *Republic v. Palacio* did not apply to the case because petitioner's PNB Account No. S/A 265-537154-3 was an account specifically opened for the expropriation proceedings of the subject property pursuant to Pres. Decree No. 42. Respondent RTC judge likewise declared Mr. Antonio Bautista guilty of contempt of court for his inexcusable refusal to obey the order dated September 8, 1988, and thus ordered his arrest and detention until his compliance with the said order.

Petitioner and the bank manager of PNB Buendia Branch then filed separate petitions for certiorari with the Court of Appeals, which were eventually consolidated. In a decision promulgated on June 28, 1989, the Court of Appeals dismissed both petitions for lack of merit, sustained the jurisdiction of respondent RTC judge over the funds contained in petitioner's PNB Account No. 265-537154-3, and affirmed his authority to levy on such funds.

Its motion for reconsideration having been denied by the Court of Appeals, petitioner now files the present petition for review with prayer for preliminary injunction.

On November 20, 1989, the Court resolved to issue a temporary restraining order enjoining respondent RTC judge, respondent sheriff, and their representatives, from enforcing and/or carrying out the RTC order dated December 21, 1988 and the writ of garnishment issued pursuant thereto. Private respondent then filed its comment to the petition, while petitioner filed its reply.

Petitioner not only reiterates the arguments adduced in its petition before the Court of Appeals, but also alleges for the first time that it has actually two accounts with the PNB Buendia Branch, to wit:

* * *

(1) Account No. S/A 265-537154-3 - exclusively for the expropriation of the subject property, with an outstanding balance of P99,743.94.

(2) Account No. S/A 263-530850-7 - for statutory obligations and other purposes of the municipal government, with a balance of P170,098,421.72, as of July 12, 1989.

* * *

[Petition, pp. 6-7; Rollo, pp. 11-12.]

Because the petitioner has belatedly alleged only in this Court the existence of two bank accounts, it may fairly be asked whether the second account was opened only for the purpose of undermining the legal basis of the assailed orders of respondent RTC judge and the decision of the Court of Appeals, and strengthening its reliance on the doctrine that public funds are exempted from garnishment or execution as enunciated in *Republic v. Palacio* [supra.] At any rate, the Court will give petitioner the benefit of the doubt, and proceed to resolve the principal issues presented based on the factual circumstances thus alleged by petitioner.

Admitting that its PNB Account No. S/A 265-537154-3 was specifically opened for expropriation proceedings it had initiated over the subject property, petitioner poses no objection to the garnishment or the levy under execution of the funds deposited therein amounting to P99,743.94. However, it is petitioner's main contention that inasmuch as the assailed orders of respondent RTC judge involved the net amount of P4,965,506.45, the funds garnished by respondent sheriff in excess of P99,743.94, which are public funds earmarked for the municipal government's other statutory obligations are exempted from execution without the proper appropriation required under the law.

There is merit in this contention. The funds deposited in the second PNB Account No. S/A 263-530850-7 are public funds of the municipal government. In this jurisdiction, well-settled is the rule that public funds are not subject to levy and execution, unless otherwise provided for by statute [*Republic v. Palacio*, supra.; *The Commissioner of Public Highways v. San Diego*, G.R. No. L-30098, February 18, 1970, 31 SCRA 616.] More particularly, the properties of a municipality, whether real or personal, which are necessary for public use cannot be attached and sold at execution sale to satisfy a money judgment against the municipality. Municipal revenues derived from taxes, licenses and market fees, and which are intended primarily and exclusively for the purpose of financing the governmental activities and functions of the municipality, are exempt from execution [See *Viuda De Tan Toco v. The Municipal Council of Iloilo*, 49 Phil. 52 (1926); *The Municipality of Paoay, Ilocos Norte v. Manaois*, 86 Phil. 629 (1950); *Municipality of San Miguel, Bulacan v. Fernandez*, G.R. No. 61744, June 25, 1984, 130 SCRA 56.] The foregoing rule finds application in the case at bar. Absent a showing that the municipal council of Makati has passed an ordinance appropriating from its public funds an amount corresponding to the balance due under the RTC decision dated June 4, 1987, less the sum of P99,743.94 deposited in Account No. S/A 265-537154-3, no levy under execution may be validly effected on the public funds of petitioner deposited in Account No. S/A 263-530850-7.

Nevertheless, this is not to say that private respondent and PSB are left with no legal recourse. Where a municipality fails or refuses, without justifiable reason, to effect payment of a final money judgment rendered against it, the claimant may avail of the remedy of mandamus in order to compel the enactment and approval of the necessary appropriation ordinance, and the corresponding disbursement of municipal funds therefor [See *Viuda De Tan Toco v. The Municipal Council of Iloilo*, supra; *Baldivia v. Lota*, 107 Phil. 1099 (1960); *Yuviengco v. Gonzales*, 108 Phil. 247 (1960).]

In the case at bar, the validity of the RTC decision dated June 4, 1987 is not disputed by petitioner. No appeal was taken therefrom. For three years now, petitioner has enjoyed possession and use of the subject property notwithstanding its inexcusable failure to comply with its legal obligation to pay just compensation. Petitioner has benefited from its possession of the property since the same has been the site of Makati West High School since the school year 1986-1987. This Court will not condone petitioner's blatant refusal to settle its legal obligation arising from expropriation proceedings it had in fact initiated. It cannot be over-emphasized that, within the

context of the State's inherent power of eminent domain.

. . . [j]ust compensation means not only the correct determination of the amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered "just" for the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss [*Coscolluela v. The Honorable Court of Appeals*, G.R. No. 77765, August 15, 1988, 164 SCRA 393, 400. See also *Provincial Government of Sorsogon v. Vda. de Villaroya*, G.R. No. 64037, August 27, 1987, 153 SCRA 291.]

The State's power of eminent domain should be exercised within the bounds of fair play and justice. In the case at bar, considering that valuable property has been taken, the compensation to be paid fixed and the municipality is in full possession and utilizing the property for public purpose, for three (3) years, the Court finds that the municipality has had more than reasonable time to pay full compensation.

WHEREFORE, the Court Resolved to ORDER petitioner Municipality of Makati to immediately pay Philippine Savings Bank, Inc. and private respondent the amount of P4,953,506.45. Petitioner is hereby required to submit to this Court a report of its compliance with the foregoing order without non-extendible period of SIXTY (60) DAYS from the date of receipt of this resolution.

The order of respondent RTC judge dated December 21, 1988, which was rendered in Civil Case No. 13699, is SET ASIDE and the temporary restraining order issued by the Court on November 20, 1989 is MADE PERMANENT.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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