

## FIRST DIVISION

[ G.R. No. 159710, September 30, 2009 ]

**CARMEN A. BLAS, PETITIONER, VS. SPOUSES EDUARDO AND SALUD GALAPON, RESPONDENTS.**

### DECISION

**BERSAMIN, J.:**

By petition for review on *certiorari*, the petitioner appeals the April 30, 2002 decision and the September 1, 2003 resolution of the Court of Appeals (CA) in C.A.-G.R. SP No. 49535, affirming the decision of the Office of the President (OP) that awarded in equal shares to the petitioner and the respondents the 50-square meter lot on which ZIP Tag Structure No. 86-313 stood.

#### Antecedents

In pursuit of the urban land reform program of the Government under Presidential Decree No. 1517,<sup>[1]</sup> Proclamation No. 1893,<sup>[2]</sup> and National Housing Authority (NHA) Circular No. 13,<sup>[3]</sup> the NHA conducted in 1987 the Zonal Improvement Program (ZIP) census and tagging of structures as pre-qualifying requisites for determining the potential lot beneficiaries in the Peñafrancia ZIP zone in Paco, Manila. In the census, the petitioner was determined to be an absentee structure owner of the dwelling unit tagged as Structure No. 86-313,<sup>[4]</sup> while respondent Eduardo Galapon and three others, namely Carlos Menodiado, Martin Nobleza and Buenaventura A. Zapanta, were censused to be the renters of the petitioner in the structure. The petitioner, then a 78-year old widow living in her son's dwelling unit tagged as Structure No. 86-305, had been renting Structure No. 86-313 out as a source of income.

NHA Circular No. 13 disqualified any absentee or uncensused structure owner from owning a lot within a ZIP zone. Alarmed that she might be disqualified to own the 50-square meter lot located at Lot 12, Block 2, Peñafrancia ZIP zone where Structure No. 86-313 stood, the petitioner filed a petition for change of status from *absentee* structure owner to *residing* structure owner with the Awards and Arbitration Committee (AAC) of NHA.

#### The Ruling of the NHA

The AAC recommended the approval of the petitioner's petition for change of status.

Aggrieved, respondent Spouses Eduardo and Salud Galapon appealed the recommendation of the AAC. The NHA gave due course to the appeal and ultimately awarded the 50-square meter lot to them on January 30, 1996,<sup>[5]</sup> stating:

Records show the following:

1. During the 1987 census survey of the project, you were censused as absentee owner of the structure with Tag No. 86-313 while Eduardo Galapon, Jr., Carlos Menodiado, Martin Nobleza and Buenaventura A. Zapanta were censused as your renters.
2. Although you have not left the project prior to, during and after the 1987 census survey, you were not found to be residing at the structure with Tag No. 86-313, allegedly owned by your daughter, Fe Blas.
3. Your daughter Fe Blas, is forty (40) years old, single and physically disabled making her dependent on you for physical and financial support.
4. Despite the foregoing facts, the Awards and Arbitration Committee recommended the approval of your request for change of status and the award in your favor of 50.0 sq. m. portion, more or less of Lot 12 Block 2.
5. On September 1, 1995, the District Manager, in an answer to our query, informed our Legal Department of the following:
  4. The Civil Status of Fe Blas, 40 years old, is single.
  5. Mrs (sic) Carmen Blas do not have any personal belongings nor does she maintain her own room in the contested structure. She is renting out the subject structure to renters, Carlos Menodiado, Eduardo Galapon Jr., Martin Nobleza and Buenaventura Zapanta at the time of the census to augment her income for old age and medicine."
6. The census masterlist provided by the project office indicates that you were censused as absentee owner of the structure with Tag No. 86-313 with remarks which is owned by your son, Rodrigo Blas. He is also an absentee structure owner.

The abode date contradicts findings of the AAC that you lived with your daughter, Fe Blas in the structure with Tag No. 86-274.

7. You maintain the structure with Tag No. 83-313 not as your residence but for purely commercial purposes by renting it out.

In view of all the foregoing, your petition for change of census status from absentee structure owner to residing structure owner and the award of 50.0 sq. m. portion, more or less, of Lot 12 Blk. 2 is hereby DENIED.

The petitioner elevated for review the NHA decision to the OP, which docketed her

appeal as OP Case No. 96-E-6455.

In the meantime, the petitioner filed an ejectment action against the respondents on October 18, 1996. She obtained a favorable judgment. After she was issued a writ of execution, the respondents voluntarily vacated the structure on November 17, 1996.

### **Ruling of the OP**

On October 13, 1997, the OP found the petitioner and the respondents to be the long-standing *bona fide* qualified applicants and awarded the disputed lot and the structure to both of them in equal shares,<sup>[6]</sup> viz:

WHEREFORE, premises considered, the appealed letter-decision of the NHA General Manager Mariano Pineda, dated January 30, 1996 is hereby SET ASIDE, and another one entered, dividing the area into two equal parts as much as possible, and allocating the same to appellant and appellees in the manner indicated in the body of this decision.

SO ORDERED.

Both parties sought reconsideration of the OP decision. The petitioner's motion was not acted upon by the OP while that of the respondents was denied for being filed out of time.

On August 13, 1998, the respondents, through their representative, Prospero M. de la Torre, wrote a letter seeking reconsideration to then Chief Presidential Legal Counsel Harriet O. Demetriou. In response, the OP issued a resolution dated October 15, 1998 denying the request.<sup>[7]</sup>

### **Ruling of the CA**

The petitioner filed a petition for review in the CA, assailing the October 13, 1997 decision and the October 15, 1998 resolution of the OP. She prayed that the disputed lot and structure be awarded to her solely considering that the respondents had already vacated the structure even prior to the promulgation of the OP decision.

On April 30, 2002, the CA denied the petition for review for lack of merit,<sup>[8]</sup> holding:

The fact that she rented out her tagged structure proved that she did not live in that dwelling unit, hence, she remained under the law an absentee owner who was disqualified outright. If at all the Office of the President awarded her one-half of the disputed lot, it was out of pure beneficence of this Office and not because she had that right under the law.

Moreover Blas did not allege in the petition nor prove that the Office of the President committed grave abuse of discretion, fraud or error in law in dividing the disputed lot between her and the Galapons. While she assigned as an error on the part of the Office of the President in having

the said lot divided, it was only upon the ground that the Galapons have already ceased to be renters after they were ejected by the court. This nevertheless does not constitute an error for the fact remains that the Galapons were the occupants at the time of the census, and not Blas. Administrative decisions on matters within the executive jurisdiction can only be set aside on proof of grave abuse of discretion, fraud, or error of law (Itogon-Suyoc Mines, Inc. vs. Office of the President, 270 SCRA 63; Zabat vs. CA, 338 SCRA 551). Absent these badges of executive excesses, this petition must fail.

The Office of the President in awarding the disputed lot to both in equal shares, did so because it was censused that the Galapons were renters of the Tagged Structure owned by Blas. As such the Galapons similarly were potential ZIP Beneficiaries who enjoyed the right of preemption and security of tenure as defined in the NHA Implementing guidelines. The fact that they were ejected in a case before Branch 25, Metropolitan Trial Court of Manila, did not render them automatically disqualified from being awardees of the ZIP project. Under the Implementing Guidelines (VIII. Ejectment, par. 1, p. 111, rollo) an ejected censused renter may only lose his status as a potential ZIP beneficiary if he does not inform the NHA or the local government unit of his address. There is nothing said and proved in the petition that spouses Galapon failed to up-date NHA of their address.<sup>[9]</sup>

The CA also denied the petitioner's motion for reconsideration on September 1, 2003.

### **Issues**

The petitioner now seeks the review and reversal of the decision of the CA upon the following issues:

- (1) Whether or not the petitioner was an absentee structure owner; and
- (2) Whether or not the respondents were disqualified to be awardees of Lot 12, Block 2, Peñafrancia ZIP Project.

### **Ruling of the Court**

The petition lacks merit.

#### **I**

#### **Petitioner Was an Absentee Structure Owner**

The ZIP is designed to upgrade the legal, environmental, social and economic conditions of slum residents within Metro Manila, in line with the spirit of the constitutional provision guaranteeing housing and a decent quality of life for every Filipino. The ownership of land by the landless is the primary objective of the ZIP.