

FIRST DIVISION

[G.R. No. 127820, July 20, 1998]

MUNICIPALITY OF PARAÑAQUE, PETITIONER, VS. V.M. REALTY CORPORATION, RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

A local government unit (LGU), like the Municipality of Parañaque, cannot authorize an expropriation of private property through a mere resolution of its lawmaking body. The Local Government Code expressly and clearly requires an ordinance or a local law for the purpose. A resolution that merely expresses the sentiment or opinion of the Municipal Council will not suffice. On the other hand, the principle of *res judicata* does not bar subsequent proceedings for the expropriation of the same property when all the legal requirements for its valid exercise are complied with.

Statement of the Case

These principles are applied by this Court in resolving this petition for review on certiorari of the July 22, 1996 Decision^[1] of the Court of Appeals^[2] in CA GR CV No. 48048, which affirmed in toto^[3] the Regional Trial Court's August 9, 1994 Resolution.^[4] The trial court dismissed the expropriation suit as follows:

"The right of the plaintiff to exercise the power of eminent domain is not disputed. However, such right may be exercised only pursuant to an Ordinance (Sec. 19, R.A. No. 7160). In the instant case, there is no such ordinance passed by the Municipal Council of Parañaque enabling the Municipality, thru its Chief Executive, to exercise the power of eminent domain. The complaint, therefore, states no cause of action.

Assuming that plaintiff has a cause of action, the same is barred by a prior judgment. On September 29, 1987, the plaintiff filed a complaint for expropriation involving the same parcels of land which was docketed as Civil Case No. 17939 of this Court (page 26, record). Said case was dismissed with prejudice on May 18, 1988 (page 39, record). The order of dismissal was not appealed, hence, the same became final. The plaintiff can not be allowed to pursue the present action without violating the principle of *res judicata*. While defendant in Civil Case No. 17939 was Limpan Investment Corporation, the doctrine of *res judicata* still applies because the judgment in said case (C.C. No. 17939) is conclusive between the parties and their successors-in-interest (*Vda. de Buncio vs. Estate of the late Anita de Leon*). The herein defendant is the successor-in-interest of Limpan Investment Corporation as shown by the 'Deed of Assignment Exchange' executed on June 13, 1990.

WHEREFORE, defendant's motion for reconsideration is hereby granted. The order dated February 4, 1994 is vacated and set aside.

This case is hereby dismissed. No pronouncement as to costs.

SO ORDERED."^[5]

Factual Antecedents

Pursuant to Sangguniang Bayan Resolution No. 93-95, Series of 1993,^[6] the Municipality of Parañaque filed on September 20, 1993, a Complaint for expropriation^[7] against Private Respondent V.M. Realty Corporation over two parcels of land (Lots 2-A-2 and 2-B-1 of Subdivision Plan Psd-17917), with a combined area of about 10,000 square meters, located at Wakas, San Dionisio, Parañaque, Metro Manila, and covered by Torrens Certificate of Title No. 48700. Allegedly, the complaint was filed "for the purpose of alleviating the living conditions of the underprivileged by providing homes for the homeless through a socialized housing project."^[8] Parenthetically, it was also for this stated purpose that petitioner, pursuant to its Sangguniang Bayan Resolution No. 577, Series of 1991,^[9] previously made an offer to enter into a negotiated sale of the property with private respondent, which the latter did not accept.^[10]

Finding the Complaint sufficient in form and substance, the Regional Trial Court of Makati, Branch 134, issued an Order dated January 10, 1994,^[11] giving it due course. Acting on petitioner's motion, said court issued an Order dated February 4, 1994,^[12] authorizing petitioner to take possession of the subject property upon deposit with its clerk of court of an amount equivalent to 15 percent of its fair market value based on its current tax declaration.

On February 21, 1994, private respondent filed its Answer containing affirmative defenses and a counterclaim,^[13] alleging in the main that (a) the complaint failed to state a cause of action because it was filed pursuant to a resolution and not to an ordinance as required by RA 7160 (the Local Government Code); and (b) the cause of action, if any, was barred by a prior judgment or res judicata. On private respondent's motion, its Answer was treated as a motion to dismiss.^[14] On March 24, 1994,^[15] petitioner filed its opposition, stressing that the trial court's Order dated February 4, 1994 was in accord with Section 19 of RA 7160, and that the principle of res judicata was not applicable.

Thereafter, the trial court issued its August 9, 1994 Resolution^[16] nullifying its February 4, 1994 Order and dismissing the case. Petitioner's motions for reconsideration and transfer of venue were denied by the trial court in a Resolution dated December 2, 1994.^[17] Petitioner then appealed to Respondent Court, raising the following issues:

"1. Whether or not the Resolution of the Parañaque Municipal Council No. 93-95, Series of 1993 is a substantial compliance of the statutory requirement of Section 19, R.A. 7180 [sic] in the exercise of the power of eminent domain by the plaintiff-appellant.

2. Whether or not the complaint in this case states no cause of action.
3. Whether or not the strict adherence to the literal observance to the rule of procedure resulted in technicality standing in the way of substantial justice.
4. Whether or not the principle of res judicata is applicable to the present case."^[18]

As previously mentioned, the Court of Appeals affirmed in toto the trial court's Decision. Respondent Court, in its assailed Resolution promulgated on January 8, 1997,^[19] denied petitioner's Motion for Reconsideration for lack of merit.

Hence, this appeal.^[20]

The Issues

Before this Court, petitioner posits two issues, viz.:

- "1. A resolution duly approved by the municipal council has the same force and effect of an ordinance and will not deprive an expropriation case of a valid cause of action.
2. The principle of res judicata as a ground for dismissal of case is not applicable when public interest is primarily involved."^[21]

The Court's Ruling

The petition is not meritorious.

First Issue: **Resolution Different from an Ordinance**

Petitioner contends that a resolution approved by the municipal council for the purpose of initiating an expropriation case "substantially complies with the requirements of the law"^[22] because the terms "ordinance" and "resolution" are synonymous for "the purpose of bestowing authority [on] the local government unit through its chief executive to initiate the expropriation proceedings in court in the exercise of the power of eminent domain."^[23] Petitioner seeks to bolster this contention by citing Article 36, Rule VI of the Rules and Regulations Implementing the Local Government Code, which provides: "If the LGU fails to acquire a private property for public use, purpose, or welfare through purchase, the LGU may expropriate said property through a resolution of the Sanggunian authorizing its chief executive to initiate expropriation proceedings."^[24] (Italics supplied.)

The Court disagrees. The power of eminent domain is lodged in the legislative branch of government, which may delegate the exercise thereof to LGUs, other public entities and public utilities.^[25] An LGU may therefore exercise the power to expropriate private property only when authorized by Congress and subject to the

latter's control and restraints, imposed "through the law conferring the power or in other legislations."^[26] In this case, Section 19 of RA 7160, which delegates to LGUs the power of eminent domain, also lays down the parameters for its exercise. It provides as follows:

"Section 19. Eminent Domain. A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose, or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, That the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, That the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated: Provided, finally, That, the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property." (Emphasis supplied)

Thus, the following essential requisites must concur before an LGU can exercise the power of eminent domain:

1. An ordinance is enacted by the local legislative council authorizing the local chief executive, in behalf of the LGU, to exercise the power of eminent domain or pursue expropriation proceedings over a particular private property.
2. The power of eminent domain is exercised for public use, purpose or welfare, or for the benefit of the poor and the landless.
3. There is payment of just compensation, as required under Section 9, Article III of the Constitution, and other pertinent laws.
4. A valid and definite offer has been previously made to the owner of the property sought to be expropriated, but said offer was not accepted.^[27]

In the case at bar, the local chief executive sought to exercise the power of eminent domain pursuant to a resolution of the municipal council. Thus, there was no compliance with the first requisite that the mayor be authorized through an ordinance. Petitioner cites *Camarines Sur vs. Court of Appeals*^[28] to show that a resolution may suffice to support the exercise of eminent domain by an LGU.^[29] This case, however, is not in point because the applicable law at that time was BP 337,^[30] the previous Local Government Code, which had provided that a mere resolution would enable an LGU to exercise eminent domain. In contrast, RA 7160,^[31] the present Local Government Code which was already in force when the Complaint for expropriation was filed, explicitly required an ordinance for this purpose.

We are not convinced by petitioner's insistence that the terms "resolution" and

“ordinance” are synonymous. A municipal ordinance is different from a resolution. An ordinance is a law, but a resolution is merely a declaration of the sentiment or opinion of a lawmaking body on a specific matter.^[32] An ordinance possesses a general and permanent character, but a resolution is temporary in nature. Additionally, the two are enacted differently -- a third reading is necessary for an ordinance, but not for a resolution, unless decided otherwise by a majority of all the Sanggunian members.^[33]

If Congress intended to allow LGUs to exercise eminent domain through a mere resolution, it would have simply adopted the language of the previous Local Government Code. But Congress did not. In a clear divergence from the previous Local Government Code, Section 19 of RA 7160 categorically requires that the local chief executive act pursuant to an ordinance. Indeed, “[l]egislative intent is determined principally from the language of a statute. Where the language of a statute is clear and unambiguous, the law is applied according to its express terms, and interpretation would be resorted to only where a literal interpretation would be either impossible or absurd or would lead to an injustice.”^[34] In the instant case, there is no reason to depart from this rule, since the law requiring an ordinance is not at all impossible, absurd, or unjust.

Moreover, the power of eminent domain necessarily involves a derogation of a fundamental or private right of the people.^[35] Accordingly, the manifest change in the legislative language -- from “resolution” under BP 337 to “ordinance” under RA 7160 -- demands a strict construction. “No species of property is held by individuals with greater tenacity, and is guarded by the Constitution and laws more sedulously, than the right to the freehold of inhabitants. When the legislature interferes with that right and, for greater public purposes, appropriates the land of an individual without his consent, the plain meaning of the law should not be enlarged by doubtful interpretation.”^[36]

Petitioner relies on Article 36, Rule VI of the Implementing Rules, which requires only a resolution to authorize an LGU to exercise eminent domain. This is clearly misplaced, because Section 19 of RA 7160, the law itself, surely prevails over said rule which merely seeks to implement it.^[37] It is axiomatic that the clear letter of the law is controlling and cannot be amended by a mere administrative rule issued for its implementation. Besides, what the discrepancy seems to indicate is a mere oversight in the wording of the implementing rules, since Article 32, Rule VI thereof, also requires that, in exercising the power of eminent domain, the chief executive of the LGU must act pursuant to an ordinance.

In this ruling, the Court does not diminish the policy embodied in Section 2, Article X of the Constitution, which provides that “territorial and political subdivisions shall enjoy local autonomy.” It merely upholds the law as worded in RA 7160. We stress that an LGU is created by law and all its powers and rights are sourced therefrom. It has therefore no power to amend or act beyond the authority given and the limitations imposed on it by law. Strictly speaking, the power of eminent domain delegated to an LGU is in reality not eminent but “inferior” domain, since it must conform to the limits imposed by the delegation, and thus partakes only of a share in eminent domain.^[38] Indeed, “the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.”^[39]