332 Phil. 744

FIRST DIVISION

[G.R. Nos. 56219 & 56220, November 27, 1996]

JAIME T. PANES, DOMINADOR A. TAN, NILDA, SYVELIN, ROSELLER, HUMILIA, ERNA, SHERLYN, LYNGAGE, EDELYN, LAURENCE AND FUJILYN, ALL SURNAMED TAN; ANTONIO C. RAQUIZA, JR., HEIRS OF RAYMUNDO BRAGA, REPRESENTED BY IGNACIO BRAGA, CRISTITUTA VALENZONA, TEODORICO MORO, BASILIO MENDOZA, REPRESENTED BY JOSE R. BANDALAN, ENRICA VALENZONA, ALBERTO SABEJON, AND 1,401 OTHER TENANTS, REPRESENTED BY THEIR COUNSEL, ATTY. SABAS B. ASTORGA, AND HONORABLE GABINO R. SEPULVEDA, PRESIDING JUDGE, COURT OF AGRARIAN RELATIONS, BRANCH I, ORMOC CITY, PETITIONERS, VS. VISAYAS STATE COLLEGE OF AGRICULTURE, AND THE HONORABLE COURT OF APPEALS, PRESIDED BY THE HONORABLE JUSTICES CRISOLITO PASCUAL, SERAFIN R. CUEVAS, AND CAROLINA GRIÑO-AQUINO, RESPONDENTS.

[G.R. NOS. 56393 & 56394. NOVEMBER 27, 1996]

JAIME T. PANES, DOMINADOR A. TAN, FOR HIMSELF AND AS GUARDIAN OF MINORS LYNGAGE, EDELYN, LAURENCE AND FUJILYN ALL SURNAMED TAN, BANK OF THE PHILIPPINE ISLANDS, NILDA TAN, SYVELYN TAN, ROSELLER TAN, HUMILLA TAN, ERNA TAN, SHERLYN TAN, ANTONIO C. RAQUIZA, JR., HEIRS OF RAYMUNDO BRAGA, REPRESENTED BY IGNACIO BRAGA, HEIRS OF MACARIO PIAMONTE, REPRESENTED BY Z. ROCA, CRISTITUTA VALENZONA, HEIRS OF TEODORICO MORO, REPRESENTED BY MARIA VDA. DE MORO & BASILIO MENDOZA, REPRESENTED BY JOSE BANDALAN & ENRICA VALENZONA, PETITIONERS, VS. THE COURT OF APPEALS AND VISAYAN STATE COLLEGE OF AGRICULTURE, RESPONDENTS.

D E C I S I O N

HERMOSISIMA, JR., J.:

Before us are consolidated petitions both seeking the review of the decision[1] of respondent Court of Appeals[2] in an expropriation case[3] filed before the Court of Agrarian Relations of Ormoc City. Of the two sets of petitions, G.R. No. 56219-20 had been denied by our resolution[4] of February 27, 1981. Since petitioners did not ask for the reconsideration thereof, the said resolution of denial had become final, and so we have only the petitions in G.R. Nos. 56393-94 to rule upon.

The facts, as culled from the pleadings, follows:

On March 21, 1977, then President Marcos issued Presidential Decree (P.D.) No. 1107 establishing the Philippine Root Crops Research and Training Center (hereafter, Root Crops Center) in the Visayas State College of Agriculture (hereafter VISCA) located at Baybay, Leyte. Pursuant to the purposes of the Root Crops Center, VISCA was authorized under P.D. No. 1107 to acquire by negotiated sale or expropriation, private agricultural properties in Barrios Pangasugan to the extent of 250 hectares and in Guadalupe, Baybay, Leyte to the extent of 75 hectares.[5]

Clothed by P.D. No. 1107 with the power to expropriate lands situated within the aforecited barrios, respondent VISCA filed a complaint[6] for expropriation against petitioners. The public purposes cited therefor were the following: (1) to establish experimental fields; (2) to construct buildings, laboratories and housing facilities for the personnel of the Root Crops Center; and (3) to integrate and conduct country-wide researches on root crops.[7]

Respondent VISCA deposited the amount of P74,050.00 with the Philippine National Bank (PNB) representing the assessed value of the lands for taxation purposes as determined under P.D. No. 76. On the basis of this deposit, respondent VISCA prayed in its complaint that a writ of possession be issued. P.D. No. 42 allows the entity expropriating the land to take possession thereof upon deposit with the PNB of the amount equivalent to the assessed value of the subject properties.

On May 15, 1978, petitioners filed their answer to the complaint. They alleged that (1) the lands sought to be expropriated were not within the area specified under P.D. No. 1107; (2) the amount of P74,050.00 did not constitute just compensation; (3) P.D. No. 794 providing that the just compensation shall not be in excess of the current and fair market value declared by the owner or administrator, or such market value as determined by the provincial assessor, which is lower, was unconstitutional; (4) likewise unconstitutional was P.D. No. 1107 for impairing the freedom of contract and violating the equal protection clause; and (5) there was no public necessity for the acquisition by respondent VISCA of petitioners' lands. Petitioners also averred, by way of counterclaim, that because of the institution of the expropriation suit against them, they suffered anguish and anxiety for which they should be indemnified with damages.

On May 10, 1978, respondent VISCA filed a motion for the issuance of a writ of possession of the properties in question, attaching thereto a certification dated November 17, 1977 issued by the cashier of the PNB, Ormoc Branch, Ormoc City, to the effect that respondent VISCA had deposited with said bank the amount of P74,050.00.

On June 8, 1978, the aforestated motion was heard before the trial court. During the hearing, respondent VISCA presented in evidence tax declarations of the properties involved which indicate the assessed values thereof for taxation purposes and the PNB certification. All these documents were admitted by the trial court without objections from petitioners. On the other hand, petitioners moved for and were granted by the lower court, additional time within which to file their written opposition to the said motion.

On July 7, 1978, some 1,298 tenants filed a motion to intervene attaching thereto an answer in intervention. In their answer, the intervenors alleged, among others,

that: (1) they were tenant-tillers and occupants of the lands involved in the expropriation proceedings; (2) their tenure of work as tenants being secured and protected by law, they cannot be removed from their landholdings through eminent domain; (3) P.D. No. 1107 was unconstitutional because the expropriation contemplated under the Constitution refers to landed estates or haciendas and not to small agricultural lands; and (4) P.D. No. 27 decreeing emancipation of tenant-tillers from the bondage of the soil and other decrees related thereto preclude expropriation of the properties of the intervenors.

On July 21, 1978, the trial court issued an order granting the intervenors' motion to intervene and admitting their answer in intervention.

On December 4, 1978, respondent VISCA filed its reply to the answer in intervention. Respondent VISCA denied that all the intervenors were tenants of the lands being expropriated and alleged that their reliance on P.D. No. 27 and other related decrees was misplaced since the proscription therein against the ejectment or removal of tenants in applicable as regards landowners, landholders and agricultural lessors and not as regards the State or those acting for and in its behalf.

On March 29, 1979, the trial court issued a resolution denying respondent VISCA's motion for the issuance of a writ of possession. The trial court reasoned that (1) expropriation was not one of the causes provided for in Republic Act (R.A.) Nos. 1199 and 3844 and P.D. Nos. 316 and 583 for the ejectment of tenants; (2) the presiding judge would be subjected to prosecution and suffer the penalty provided for under Section 2 of P.D. No. 583 were he to grant said motion; (3) P.D. No. 42, being a procedural law, cannot be said to prevail over the aforecited agrarian laws which are substantive laws; (4) P.D. No. 42 was only applicable to untenanted private properties; (5) the purpose for the expropriation, which is root crop experimentation, cannot be deemed to prevail over the tenurial rights of the tenant-intervenors; and (6) there is doubt as to whether the lands to be expropriated were indeed within the area indicated by P.D. No. 1107 to be proper for expropriation.

On April 23, 1979, respondent VISCA filed a motion for reconsideration of the aforecited resolution.

On June 21, 1979, the trial court issued an order denying respondent VISCA's motion for reconsideration.

On August 17, 1979, respondent VISCA filed with this court a petition for review by certiorari with prayer for the issuance of a temporary restraining order (TRO) and/or a writ of preliminary injunction. We, however, referred the said petition to the respondent Court of Appeals which docketed the same as CA-G.R. No. 09659-SP.

Acting on the prayer for the issuance of a TRO, respondent court issued the same on August 30, 1979 ordering all the parties and the trial court to maintain the status quo.

Notwithstanding the mandate of the TRO, however, the trial court proceeded with the scheduled hearing of the expropriation case on September 5 and 6, 1979. On September 6, 1979, the trial judge dismissed the case in an order of the same date. Respondent VISCA filed a motion for reconsideration of the order of dismissal which was denied in an order dated October 23, 1979, this notwithstanding receipt

by the trial judge of the TRO on September 14, 1979.

On November 6, 1979, respondent VISCA filed in CA-G.R. No. 09659-SP a motion for the issuance of an order of preliminary mandatory injunction directing the trial court to reinstate the expropriation case.

On December 10, 1979, respondent appellate court issued a resolution directing the trial judge to reinstate the expropriation case as it was on or before August 31, 1979.

Meanwhile, respondent VISCA, on November 7, 1979, likewise filed a notice of appeal from the trial court's order of September 6, 1979 and resolution of October 23, 1979 as regards the dismissal of the expropriation case.

On December 6, 1979, the clerk of court of the trial court forwarded the original records of the expropriation case to the respondent appellate court. The appeal was docketed as CA-G.R. No. 10250-CAR.

Subsequently, respondent VISCA filed a manifestation with motion to consolidate CA-G.R. No. 09659-SP and CA-G.R. No. 10250-CAR. Said motion was granted by the respondent court on February 20, 1980.

On August 14, 1980, respondent Court of Appeals rendered a decision in the aforecited consolidated cases. Respondent court found the dismissal of the expropriation case to be tainted with grave abuse of discretion. It explained:

> *"We cannot approve the dismissal of CAR Case NO. 1659. The reasons advanced by the x x x [trial] court for the issuance of the order of September 6, 1979 and the resolution of October 23, 1979, do not support the dismissal with prejudice of CAR Case No. 1659. That step taken by the lower court is too drastic and harsh under the premises. First, the petitioner [private respondent] sent a telegram on August 28, 1979 to the x x x [trial] court and to the opposing counsels requesting for the 'cancellation' of the hearing of CAR Case No. 1659 set on September 5, 6 and 7, 1979. Second, the scheduled hearings were also subject of injunction in a petition for certiorari filed before x x x [respondent] Court. Third, it was the first time the petitioner [respondent VISCA] sought for a postponement of the hearing of the case. Fourth, there is no basis for the conclusion of the lower court that there is failure to prosecute the case. x x x we find in the record evidence of grave abuse of discretion on the part of the x x x [trial] court in dismissing with prejudice CAR Case No. 1659 considering that the petitioner [respondent VISCA] had already asked for the postponement of the hearings set for September 5, 6 and 7, 1979 until the resolution by x x x [respondent] court of the issue raised in its original petition x x x."* [8]

With respect to the issue of whether or not the trial court erred in not granting respondent VISCA's motion for the issuance of a writ of possession, respondent Court of Appeals ruled in favor of respondent VISCA, holding that:

> *"x x x [trial] court had committed a grave abuse of discretion when it denied immediate possession of the subject properties in its resolution of*

March 29, 1979 and in its order of June 21, 1979. As we see it, the authority of the petitioner [respondent VISCA] to take immediate possession of the subject properties appear clear and explicit under Section 4 of Presidential Decree No. 1107 in relation to Presidential Decree No. 42. The contention of the respondents [petitioners] that Presidential Decree No. 42 applies only to untenanted lands in not convincing for there is nothing in Presidential Decree No. 42 that indicates this. We are guided in this by the prevailing wisdom that there is no basis for distinction when the law itself does not distinguish.

x x x

x x x [P]etitioner [respondent] Visayas State College filed on May 10, 1978 a motion for the issuance of a writ to take possession of the subject properties. Petitioner [respondent VISCA] has complied with the requirements of Presidential Decree no. 42 which gives the petitioner [respondent VISCA] the right to take possession of the subject of the expropriation proceedings. Petitioner [respondent VISCA] has notified the respondents [petitioners] of its desire to take possession of the properties, as evidenced by the complaint filed in Civil Case NO. 1659-CAR. Petitioner [respondent VISCA] has also deposited with the Philippine National Bank, Ormoc Branch, the amount equivalent to the assessed value of the subject properties. Petitioner's [respondent VISCA's] motion for the issuance of the writ of possession was duly heard by the x x x [trial] court x x x Under Section 4 of Presidential Decree No. 1107, the issuance of a possessory writ is then mandatory on the part of the x x x [trial] judge. But this notwithstanding, the x x x [trial] court denied the motion for the issuance of the writ of possession.

While it is a fact that at the time the resolution of March 29, 1979 and the order of June 21, 1979 were issued by the x x x [trial] court, Presidential Decree No. 1533 x x x has previously established a uniform basis for the determination of just compensation and the amount of deposit for immediate possession of the property involved in eminent domain proceedings, having been promulgated on June 11, 1978, the same does not render the deposit made by the petitioner void or invalid. As a matter of fact, Section 2 of Presidential Decree No. 1533 authorizes the immediate possession of properties affected by eminent domain proceedings upon payment of an amount equivalent to 10% of the amount of compensation for the property. So that if and when the standing deposit of the petitioner with the Philippine National Bank as required by Presidential Decree No. 42 is not sufficient under Presidential Decree No. 1533, the x x x [trial] court should have ordered the petitioner [respondent VISCA] to deposit the additional amount rather than deny the motion"[9]

Petitioners also assailed the constitutionality of P.D. No. 1107 before the respondent Court of Appeals. Said court, however, was unconvinced. It ruled:

"Respondents [petitioners] x x x assails [sic] the constitutionality of Presidential Decree No. 1107 on the grounds that it: 1) impairs the freedom of contract guaranteed by the Constitution, 2) violates the equal