

FIRST DIVISION

[G.R. No. 138823, September 17, 2008]

**CARIDAD MAGKALAS, PETITIONER, VS. NATIONAL HOUSING
AUTHORITY, RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

In this petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, petitioner seeks to set aside and annul the Decision^[1] dated March 10, 1999 as well as the Order^[2] dated May 14, 1999 rendered by the Regional Trial Court (RTC) of Caloocan City, Branch 124, in *Civil Case No. C-16464*.

The RTC decision dismissed the complaint for damages with prayer for temporary restraining order/writ of preliminary injunction filed by herein petitioner against the National Housing Authority (NHA). The RTC also ordered the NHA to proceed with the demolition of petitioner's structure.

The undisputed facts, as found by the RTC, are quoted hereunder:

x x x plaintiff and her predecessors-in-interest have been occupying a lot designated as TAG-77-0063, Block 1, Barangay 132, located at the corner of 109 Gen. Concepcion and Adelfa Streets, Bagong Barrio, Caloocan City, for the past 39 years.

On March 26, 1978, P.D. No. 1315 was issued expropriating certain lots at Bagong Barrio, Caloocan City. In the same Decree, the National Housing Authority (NHA) was named Administrator of the Bagong Barrio Uban Bliss Project with the former to take possession, control (sic) and disposition of the expropriated properties with the power of demolition. During the Census survey of the area, the structure built by the plaintiff was assigned TAG No. 0063. After conducting studies of the area, the NHA determined that the area where plaintiff's structure is located should be classified as an area center (open space). The Area Center was determined in compliance with the requirement to reserve 30% open space in all types of residential development.

Plaintiff, together with Mr. & Mrs. Josefino Valenton and Mr. & Mrs. Rey Pangilinan, through counsel, filed an appeal from the decision to designate the area where the plaintiff and the two other spouses have erected structures, as an Area Center. On January 25, 1985, the NHA, through its General Manager, sent a letter to the counsel of the plaintiff and the two other previously named spouses explaining why the area where their structures were erected was designated as the area center (open space). The said appeal was denied by the NHA. In a letter, dated

August 6, 1985, the NHA sent a Notice of Lot Assignment to plaintiff recognizing the latter as a Censused Owner of a structure with TAG No. 0063-04 which was identified for relocation.

In the same Notice, the NHA informed plaintiff that per Development Program of Bagong Barrio, she was being assigned to Lot 77, Block 2, Barangay 132.

On August 23, 1985, plaintiff filed a Complaint for Damages with prayer for the issuance of a restraining order and writ of Preliminary Injunction against the NHA with the Regional Trial Court of Caloocan City. This was docketed as Civil Case No. C-12102. The civil case was filed after the NHA, through Henry Camayo, sent a letter to the plaintiff earlier in the month of August, 1985 directing said plaintiff to vacate the premises and dismantle her structure. In an Order, dated July 23, 1981, this civil case docketed as C-12102 was dismissed with the instruction that the parties exhaust the administrative remedies available to the plaintiff.

Sometime in March, 1994, plaintiff received a letter, dated March 8, 1994 from Ines Gonzales, the Office-in-charge of District II-NCR. In said letter, plaintiff was advised that her previous request to stay put in her house which is located within the area designated as Area Center, was previously denied per resolution of the NHA which was signed as early as February 21, 1990 by the former manager of the NHA, Monico Jacob. The plaintiff was told to remove the structure she erected on the area within 30 days and to transfer her residence to Lot 77, Block 2. It was stressed in said letter that no Judicial Order was required to remove the plaintiff's structure pursuant to P.D. No. 1472.

Plaintiff prays that, aside from the issuance of a temporary restraining order/writ of preliminary injunction, defendants be enjoined from transferring plaintiff's residential house from its present location to another lot and/or demolishing the same without judicial order; payment of moral damages, in the amount of P50,000.00, for the malicious and illegal acts of defendants; and payment of P50,000.00 as attorney's fees.

At this juncture, it may not be remiss to state that the two other homeowners, Mr. & Mrs. Josefino Valenton, and Mr. & Mrs. Rey Pangilinan had already transferred to their allocated lots at Lot 2, Block 1, and Lot 78, Block 2, respectively.

On March 25, 1994, the Court issued a Temporary Restraining Order (TRO) against defendants. After hearing and submission of memoranda, plaintiff's prayer for issuance of a writ of preliminary injunction was denied in an Order dated April 14, 1994.

The Order denying plaintiff's prayer for issuance of a writ of preliminary injunction was appealed, by way of Petition for Certiorari, to the Court of Appeals (docketed therein as CA-G.R. No. 33833). On May 31, 1994, the Court of Appeals, Seventeenth Division, promulgated a Decision denying the Petition. Plaintiff's (petitioner herein) motion for reconsideration having been denied in a Resolution dated July 29, 1994, she appealed to

the Supreme Court by way of Petition for Review on Certiorari. The Supreme Court, through the First Division, issued a Resolution dated October 5, 1994, denying the Petition. An Entry of Judgment on the aforesaid Resolution was made on December 22, 1994.

Thereafter, pre-trial conference was scheduled on January 9, January 23, February 16, March 22 and finally on April 25, all in 1996 (an Order dated May 16, 1996 was issued declaring the pre-trial terminated). During the pre-trial, counsel for plaintiff proposed that the case be decided based on the memoranda to be submitted by the parties, to which counsel for defendants agreed. Hence, a Motion for Leave of Court to allow parties to submit memoranda in lieu of trial was filed by the defendants. Plaintiff filed her comment thereto. After submission of NHA's Reply and plaintiff's rejoinder, reiterating their respective stands, the Court resolved to grant the Motion for Leave. In the same Order, the parties were directed to submit their respective memoranda within thirty (30) days from receipt, on the sole issue of whether or not the NHA can lawfully relocate the plaintiff and demolish plaintiff's structure.^[3]

On March 10, 1999, the trial court promulgated its assailed decision dismissing petitioner's complaint. Petitioner's subsequent motion for reconsideration was likewise denied by the trial court in its Order dated May 14, 1999. Hence, this petition for review of the said decision and order of the RTC.

In the instant petition for review, petitioner raises the following issues:

A. WHETHER OR NOT THE DEMOLITION OR RELOCATION OF THE PETITIONER'S STRUCTURE WILL VIOLATE THE VESTED RIGHTS OF THE PETITIONER OVER THE ACQUIRED PROPERTY UNDER THE SOCIAL JUSTICE CLAUSE OF THE CONSTITUTION.

B. WHETHER OR NOT R.A. 7279 IMPLIEDLY REPEALED P.D. 1472 AND P.D. 1315.^[4]

As to the first issue, petitioner maintains that she had acquired a vested right over the property subject of this case on the ground that she had been in possession of it for forty (40) years already. Thus, to order her relocation and the demolition of her house will infringe the social justice clause guaranteed under the Constitution.

Petitioner's contentions must necessarily fail. The NHA's authority to order the relocation of petitioner and the demolition of her property is mandated by Presidential Decree (P.D.) No. 1315.^[5] Under this Decree, the entire Bagong Barrio in Caloocan City was identified as a blighted area and was thereby declared expropriated. The properties covered under P.D. No. 1315 included petitioner's property. The NHA, as the decree's designated administrator for the national government, was empowered to take possession, control and disposition of the expropriated properties with the power of demolition of their improvements.^[6] Section 2 of P.D. No. 1315 further states:

Section 2. The comprehensive development plan shall consider the upgrading of existing dwelling units, the relocation of qualified squatter families to a resettlement area nearby; and the re-blocking, re-

arrangement and re-alignment of existing dwelling and other structures to allow for the introduction of basic facilities and services, all in accordance with the provision of national SIR [Slum Improvement Resettlement] and Metro Manila ZIP [Zonal Improvement Program] Programs. The Authority [NHA] shall maximize the land use of the area and shall provide for a controlled, orderly and structured growth of dwellings in an environment provided with adequate sanitary and other physical facilities. (Words in bracket ours)

Pursuant to Section 2 of P.D. No. 1315, the NHA identified Area 1 where petitioner's property was located as part of the Area Center reserved for open space, after studies have shown that the development of the area will affect only three (3) structures compared to six (6) or more structures in the other areas. A stage and recreation center was expected to be constructed at the Area Center. As a result, petitioner was informed by the NHA that she would be relocated to Lot 77, Block 2, Barangay 132. However, petitioner adamantly refused to vacate the property claiming she had acquired a vested right over the same. Her refusal to vacate and relocate to her assigned lot had hampered the development of the entire area. It should be noted that to date, only petitioner had refused to comply with the NHA directive as the other occupants in Area 1 had already vacated the premises.

To stress, P.D. No. 1315 explicitly vests the NHA the power to immediately take possession, control and disposition of the expropriated properties with the power of demolition. Clearly, the NHA, by force of law, has the authority to order the relocation of petitioner, and the demolition of her structure in case of her refusal as this is the only way through which the NHA can effectively carry out the implementation of P.D. No. 1315.

The NHA's authority to demolish squatters and illegal occupants was further reinforced by P.D. No. 1472^[7] which specifically provides as follows:

SEC. 2. The National Housing Authority shall have the **power to summarily eject, without the necessity of judicial order**, any and all squatters' colonies on government resettlement projects, as well as any illegal occupants in any homelot, apartment or dwelling unit owned or administered by it. In the exercise of such power, the National Housing Authority shall have the right and authority to request the help of the Barangay Chairman and any peace officer in the locality. xxx.(Emphasis ours)

Inasmuch as petitioner's property was located in the area identified as an open space by the NHA, her continued refusal to vacate has rendered illegal her occupancy thereat. Thus, in accordance with P.D. No. 1472, petitioner could lawfully be ejected even without a judicial order.

Neither can it be successfully argued that petitioner had already acquired a vested right over the subject property when the NHA recognized her as the censused owner by assigning to her a tag number (TAG No. 77-0063). We quote with approval the trial court's pertinent findings on the matter:

Plaintiff's structure was one of those found existing during the census/survey of the area, and her structure was assigned TAG No. 77-0063. While it is true that NHA recognizes plaintiff as the censused owner

of the structure built on the lot, the issuance of the tag number is not a guarantee for lot allocation. Plaintiff had petitioned the NHA for the award to her of the lot she is occupying. However, the census, tagging, and plaintiff's petition, did not vest upon her a legal title to the lot she was occupying, but a mere expectancy that the lot will be awarded to her. The expectancy did not ripen into a legal title when the NHA, through Ms. Ines Gonzales, sent a letter dated March 8, 1994 informing her that her petition for the award of the lot was denied. Moreover, the NHA, after the conduct of studies and consultation with residents, had designated Area 1, where the lot petitioned by plaintiff is located, as an Area Center.^[8]

A vested right is one that is absolute, complete and unconditional and no obstacle exists to its exercise. It is immediate and perfect in itself and not dependent upon any contingency. To be vested, a right must have become a title -- legal or equitable -- to the present or future enjoyment of property.^[9]

Contrary to petitioner's position, the issuance of a tag number in her favor did not grant her irrefutable rights to the subject property. The "tagging of structures" in the Bagong Barrio area was conducted merely to determine the qualified beneficiaries and *bona fide* residents within the area. It did not necessarily signify an assurance that the tagged structure would be awarded to its occupant as there were locational and physical considerations that must be taken into account, as in fact, the area where petitioner's property was located had been classified as Area Center (open space). The assignment of a tag number was a mere expectant or contingent right and could not have ripened into a vested right in favor of petitioner. Her possession and occupancy of the said property could not be characterized as fixed and absolute. As such, petitioner cannot claim that she was deprived of her vested right when the NHA ordered her relocation to another area.

Petitioner invokes the Social Justice Clause of the Constitution, asserting that a poor and unlettered urban dweller like her has a right to her property and to a decent living. Thus, her relocation and the demolition of her house would be violative of her right embodied under Article XIII of the Constitution, to wit:

Sec. 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners. (Underscoring supplied)

Sec. 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner. (Underscoring supplied)

No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.