

## THIRD DIVISION

**[ G.R. No. 132431, February 13, 2004 ]**

**ESTATE OR HEIRS OF THE LATE EX-JUSTICE JOSE B. L. REYES  
REPRESENTED BY THEIR ADMINISTRATRIX AND ATTORNEY-IN-  
FACT, ADORACION D. REYES, AND THE ESTATE OR HEIRS OF THE  
LATE DR. EDMUNDO A. REYES, REPRESENTED BY MARIA TERESA  
P. REYES AND CARLOS P. REYES, PETITIONERS, VS. CITY OF  
MANILA, RESPONDENT.**

**[G.R. No. 137146]**

**ESTATE OF HEIRS OF THE LATE EX-JUSTICE JOSE B.L. REYES  
AND ESTATE OR HEIRS OF THE LATE DR. EDMUNDO REYES,  
PETITIONERS, VS. COURT OF APPEALS, DR. ROSARIO ABIOG,  
ANGELINA MAGLONSO AND SAMPAGUITA BISIG NG  
MAGKAKAPITBAHAY, INC. AND THE CITY OF MANILA,  
RESPONDENTS.**

### D E C I S I O N

**CORONA, J.:**

Before us are the following consolidated petitions filed by petitioners Heirs of Jose B.L. Reyes and Edmundo Reyes: (1) a petition for review<sup>[1]</sup> of the decision<sup>[2]</sup> of the Court of Appeals dated January 27, 1998 which ordered the condemnation of petitioners' properties and reversed the order<sup>[3]</sup> of the Regional Trial Court (RTC) of Manila, Branch 9, dated October 3, 1995 dismissing the complaint of respondent City of Manila (City) for expropriation, and (2) a petition for certiorari<sup>[4]</sup> alleging that the Court of Appeals committed grave abuse of discretion in rendering a resolution<sup>[5]</sup> dated August 19, 1998 which issued a temporary restraining order against the Municipal Trial Court (MTC) of Manila, Branch 10, not to "(disturb) the occupancy of Dr. Rosario Abiog, one of the members of SBMI, until the Supreme Court has decided the Petition for Review on Certiorari" and a resolution<sup>[6]</sup> dated December 16, 1998 enjoining petitioners "from disturbing the physical possession of all the properties subject of the expropriation proceedings."

The undisputed facts follow.

The records show that Jose B. L. Reyes and petitioners Heirs of Edmundo Reyes are the pro-indiviso co-owners in equal proportion of 11 parcels of land with a total area of 13,940 square meters situated at Sta. Cruz District, Manila and covered by Transfer Certificate of Title No. 24359 issued by the Register of Deeds of Manila. These parcels of land are being occupied and leased by different tenants, among whom are respondents Abiog, Maglonso and members of respondent Sampaguita Bisig ng Magkakapitbahay, Incorporated (SBMI). Petitioners leased to respondent

Abiog Lot 2-E, Block 3007 of the consolidated subdivision plan (LRC) Psd- 328345, with an area of 191 square meters<sup>[7]</sup> and to respondent Maglonso, Lot 2-R, Block 2996 of the same consolidation plan, with an area of 112 square meters.<sup>[8]</sup>

On November 9, 1993 and May 26, 1994, respectively, Jose B.L. Reyes and petitioners Heirs of Edmundo Reyes filed ejectment complaints against respondents Rosario Abiog and Angelina Maglonso, among others. Upon his death, Jose B.L. Reyes was substituted by his heirs. Petitioners obtained favorable judgments against said respondents. In Civil Case No. 142851-CV, the Metropolitan Trial Court (MTC) of Manila, Branch 10, rendered a decision dated May 9, 1994 against respondent Abiog. In Civil Case No. 144205-CV, the MTC of Manila, Branch 3, issued judgment dated May 4, 1995 against respondent Maglonso.

Respondents Abiog and Maglonso appealed the MTC decisions but the same were denied<sup>[9]</sup> by the RTC of Manila, Branch 28, and the RTC of Manila, Branch 38, respectively. Their appeals to the Court of Appeals were likewise denied.<sup>[10]</sup> As no appeals were further taken, the judgments of eviction against respondents Abiog and Maglonso became final and executory in 1998.

Meanwhile, during the pendency of the two ejectment cases against respondents Abiog and Maglonso, respondent City filed on April 25, 1995 a complaint for eminent domain (expropriation)<sup>[11]</sup> of the properties of petitioners at the RTC of Manila, Branch 9. The properties sought to be acquired by the City included parcels of land occupied by respondents Abiog, Maglonso and members of respondent SBMI.

The complaint was based on Ordinance No. 7818 enacted on November 29, 1993 authorizing the City Mayor of Manila to expropriate certain parcels of land with an aggregate area of 9,930 square meters, more or less, owned by Jose B.L. Reyes and Edmundo Reyes situated along the streets of Rizal Avenue, Tecson, M. Natividad, Sampaguita, Oroquieta, M. Hizon, Felix Huertes, Bulacan, Sulu, Aurora Boulevard, Pedro Guevarra and Kalimbas in the third district of Manila. These parcels of land are more particularly described in the pertinent Cadastral Plan as Lot 3, Block 2995, Lot 2, Block 2996; Lot 2, Block 2999; Lot 5, Block 2999, and Lot 2, Block 3007. According to the ordinance, the said properties were to be distributed to the intended beneficiaries, who were "the occupants of the said parcels of land who (had) been occupying the said lands as lessees or any term thereof for a period of at least 10 years."<sup>[12]</sup>

The complaint alleged that, on March 10, 1995, respondent City thru City Legal Officer Angel Aguirre, Jr. sent the petitioners a written offer to purchase the subject properties for P10,285,293.38 but the same was rejected. Respondent City prayed that an order be issued fixing the provisional value of the property in the amount of P9,684,380 based on the current tax declaration of the real properties and that it be authorized to enter and take possession thereof upon the deposit with the trial court of the amount of P1,452,657 or 15% of the aforesaid value.

On May 15, 1995, respondent SBMI, a registered non-stock corporation composed of the residents of the subject properties (including as well as representing herein respondents Abiog and Maglonso), filed a motion for intervention and admission of their attached complaint with prayer for injunction. Respondent SBMI alleged that it had a legal interest over the subject matter of the litigation as its members were the

lawful beneficiaries of the subject matter of the case. It prayed for the issuance of a temporary restraining order to enjoin the petitioners from ousting the occupants of the subject properties. The trial court denied the motion for intervention in an order dated June 2, 1995 on the ground that "the movants' interest (was) indirect, contingent, remote, conjectual (sic), consequential (sic) and collateral. At the very least, it (was), if it (existed) at all, purely inchoate, or in sheer expectancy of a right that may or may not be granted."<sup>[13]</sup>

On the day SBMI's motion for intervention was denied, petitioners filed a motion to dismiss the complaint for eminent domain for lack of merit. Among the grounds alleged were the following:

xxx that the amount allegedly deposited by the plaintiff is based on an erroneous computation since Sec. 19 of the Local Government Code of 1991 provides that in order for the plaintiff to take possession of the property, the deposit should be at least 15% of the fair market value of the property based on the current tax declaration of the property to be expropriated which is P19,619,520.00, 15% of which is P2,942,928.00; that since the subject property is allegedly being expropriated for socialized housing, the guidelines for their equitable valuation shall be set by the Department of Finance on the basis of the market value reflected in the zonal valuation conformably to Sec. 13 of R.A. No. 7279; that under Department Order No. 33-93 adopted by the Department of Finance, through the Bureau of Internal Revenue, on 26 April 1992, the zonal valuation of the subject property is conservatively estimated at approximately P76M; that the plaintiff has no savings or unappropriated funds to pay for the just compensation; that instead of expropriating the subject property which enjoys the least priority in the acquisition by the City of Manila for socialized housing under Sec. 9(t) of R.A. 7279, the money to be paid should be channeled to the development of 244 sites in Metro Manila designated as area for priority development; that the City Ordinance was not properly adopted since there was no public hearing and neither were the defendants notified; that the tenants occupying the subject property cannot be categorized as "underprivileged and homeless citizens" or those whose income falls within the poverty threshold to be qualified as beneficiaries of the intended socialized housing; and that the plaintiff failed to comply with Art. 34, Rule 6 of the Rules and Regulations Implementing the Local Government Code of 1991 which requires the local government unit to first establish the suitability of the property to be acquired for the use intended and then proceed to obtain from the proper authorities, like the National Housing Authority, the necessary locational clearance and other requirements imposed under existing laws, rules and regulations.<sup>[14]</sup>

On June 6, 1995, the trial court allowed respondent City to take possession of the subject property upon deposit of the amount of P1,542,793, based on the P10,285,293.38 offer by respondent City to petitioners which the trial court fixed as the provisional amount of the subject properties. On June 14, 1995, respondent City filed an opposition to petitioners' motion to dismiss.

On October 3, 1995, the City's complaint for eminent domain was dismissed.<sup>[15]</sup> The trial court held that expropriation was inappropriate because herein petitioners were

in fact willing to sell the subject properties under terms acceptable to the purchaser. Moreover, respondent City failed to show that its offer was rejected by petitioners. Respondent City's motion for reconsideration was denied.

On January 12, 1996, respondent City appealed the decision of the trial court to the Court of Appeals. Thereafter, several motions<sup>[16]</sup> seeking the issuance of a temporary restraining order and preliminary injunction were filed by respondent City to prevent petitioners from ejecting the occupants of the subject premises. On March 21, 1996, the Court of Appeals issued a resolution<sup>[17]</sup> denying the motions for lack of merit. Respondent City's motion for reconsideration was likewise denied.

Meanwhile, on January 27, 1997, in view of the finality of the judgment in the ejectment case against respondent Abiog, the MTC of Manila, Branch 10, issued a writ of execution.

On January 31, 1997, respondent SBMI filed in the Court of Appeals a motion for leave to intervene with prayer for injunctive relief praying that the ejectment cases be suspended or that the execution thereof be enjoined in view of the pendency of the expropriation case filed by respondent City over the same parcels of land.

As a follow-up, respondent Abiog filed in the appellate court, on August 25, 1997, a reiteratory motion for issuance of temporary restraining order and to stop the execution of the order dated June 27, 1997 of the Hon. Judge Tranquil P. Salvador, MTC of Manila, Branch 10.

On August 26, 1997, the Court of Appeals issued a resolution<sup>[18]</sup> finding *prima facie* basis to grant SBMI's motions. It issued a temporary restraining order to Judge Salvador, his employees and agents to maintain the *status quo*. After the hearing on the propriety of the issuance of a writ of preliminary injunction, respondent SBMI filed a reiteratory motion for injunctive relief on December 11, 1997.

On January 27, 1998, the Court of Appeals rendered the assailed decision reversing the trial court judgment and upholding as valid respondent City's exercise of its power of eminent domain over petitioners' properties. The dispositive portion of the decision stated:

WHEREFORE, the Orders appealed from are hereby REVERSED and SET ASIDE. The case is remanded to the lower court to determine specifically the amount of just compensation.

SO ORDERED.<sup>[19]</sup>

According to the Court of Appeals:

xxx there is no doubt as to the public purpose of the plaintiff-appellant in expropriating the property of the defendants-appellees. Ordinance No. 7818 expressly states that the subject parcels of land are to be distributed to the landless poor residents therein who have been in possession of the said property for at least ten (10) years.

xxx In the absence of any law which expressly provides for a period for filing an expropriation proceeding, the lower court erred in dismissing the complaint based on unsupported accusations and mere speculations, such as political motivation. The fact that the expropriation proceeding was not immediately instituted does not negate the existence of the public purpose for which the ordinance was enacted.

Another reason for the lower court's dismissal was its finding that there was no proof that the offer of the plaintiff-appellant, through the City Legal Office, was not accepted. This conclusion by the lower court is belied by the letter of Adoracion D. Reyes, dated 17 March 1995, xxx.

xxx    xxx    xxx

There can be no interpretation of the letter of the defendant-appellee other than that the valid and definite offer of the plaintiff-appellant to purchase the subject property was not accepted and, in the words of the defendant-appellee, was totally turned down.

The lower court in denying the plaintiff-appellant's motion for reconsideration of the order of dismissal held that the defendants-appellees were actually willing to sell, in fact, some of the tenants have already purchased the land that they occupy. However, we agree with the plaintiff-appellant that the contracts entered into by the defendants-appellees with some of the tenants do not affect the offer it made. The plaintiff-appellant was not a party in those transactions and as pointed out, its concern is the majority of those who have no means to provide themselves with decent homes to live on.<sup>[20]</sup>

From the aforementioned decision of the Court of Appeals, petitioners filed on March 19, 1998 the present petition for review<sup>[21]</sup> before this Court. Alleging that respondent City cannot expropriate the subject parcels of land, petitioners assigned the following as errors of the Court of Appeals:

The Court Appeals committed grave abuse and irreversible errors in holding that respondent City of Manila may expropriate petitioners' parcels of land considering that:

- I.        Respondent did not comply with Secs. 9 and 10 of P.D. (sic) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992 and Sec. 34 of the Local Government Code of 1991 (*sic*)."
- II.       Ordinance No. 7818 enacted by the City of Manila is violative of the equal protection clause.
- III.      There was no valid and definite offer by the respondent City of Manila to purchase subject parcels of land.
- IV.      Assuming there was a valid offer, the amount deposited for the payment of just compensation was insufficient.