322 Phil. 442

FIRST DIVISION

[G.R. No. 106440, January 29, 1996]

ALEJANDRO MANOSCA, ASUNCION MANOSCA AND LEONICA MANOSCA, PETITIONERS, VS. HON. COURT OF APPEALS, HON. BENJAMIN V. PELAYO, PRESIDING JUDGE, RTC-PASIG, METRO MANILA, BRANCH 168, HON. GRADUACION A. REYES CLARAVAL, PRESIDING JUDGE, RTC-PASIG, METRO MANILA, BRANCH 71, AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

VITUG, J.:

In this appeal, via a petition for review on *certiorari,* from the decision[1] of the Court of Appeals, dated 15 January 1992, in CA-G.R. SP No. 24969 (entitled "Alejandro Manosca, et al. v. Hon. Benjamin V. Pelayo, et al."), this Court is asked to resolve whether or not the "public use" requirement of Eminent Domain is extant in the attempted expropriation by the Republic of a 492-square-meter parcel of land so declared by the National Historical Institute ("NHI") as a national historical landmark.

The facts of the case are not in dispute.

Petitioners inherited a piece of land located at P. Burgos Street, Calzada, Taguig, Metro Manila, with an area of about four hundred ninety-two (492) square meters. When the parcel was ascertained by the NHI to have been the birthsite of Felix Y. Manalo, the founder of *Iglesia Ni Cristo,* it passed Resolution No. 1, Series of 1986, pursuant to Section 4[2] of Presidential Decree No. 260, declaring the land to be a national historical landmark. The resolution was, on 06 January 1986, approved by the Minister of Education, Culture and Sports. Later, the opinion of the Secretary of Justice was asked on the legality of the measure. In his Opinion No. 133, Series of 1987, the Secretary of Justice replied in the affirmative; he explained:

> "According to your guidelines, national landmarks are places or objects that are associated with an event, achievement, characteristic, or modification that makes a turning point or stage in Philippine history. Thus, the birthsite of the founder of the Iglesia ni Cristo, the late Felix Y. Manalo, who, admittedly, had made contributions to Philippine history and culture has been declared as a national landmark. It has been held that places invested with unusual historical interest is a public use for which the power of eminent domain may be authorized x x x.
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> "In view thereof, it is believed that the National Historical Institute as an agency of the Government charged with the maintenance and care of national shrines, monuments and landmarks and the development of

> historical sites that may be declared as national shrines, monuments and/or landmarks, may initiate the institution of condemnation proceedings for the purpose of acquiring the lot in question in accordance with the procedure provided for in Rule 67 of the Revised Rules of Court. The proceedings should be instituted by the Office of the Solicitor General in behalf of the Republic."

Accordingly, on 29 May 1989, the Republic, through the Office of the Solicitor-General, instituted a complaint for expropriation[3] before the Regional Trial Court of Pasig for and in behalf of the NHI alleging, *inter alia,* that:

> "Pursuant to Section 4 of Presidential Decree No. 260, the National Historical Institute issued Resolution No. 1, Series of 1986, which was approved on January, 1986 by the then Minister of Education, Culture and Sports, declaring the above described parcel of land which is the birthsite of Felix Y. Manalo, founder of the *'Iglesia ni Cristo,'* as a National Historical Landmark. The plaintiff perforce needs the land as such national historical landmark which is a public purpose."

At the same time, respondent Republic filed an urgent motion for the issuance of an order to permit it to take immediate possession of the property. The motion was opposed by petitioners. After a hearing, the trial court issued, on **03 August 1989,** [4] an order fixing the provisional market (P54,120.00) and assessed (P16,236.00) values of the property and authorizing the Republic to take over the property once the required sum would have been deposited with the Municipal Treasurer of Taguig, Metro Manila.

Petitioners moved to dismiss the complaint on the main thesis that the intended expropriation was not for a public purpose and, incidentally, that the act would constitute an application of public funds, directly or indirectly, for the use, benefit, or support of *Iglesia ni Cristo,* a religious entity, contrary to the provision of Section 29(2), Article VI, of the 1987 Constitution.[5] Petitioners sought, in the meanwhile, a suspension in the implementation of the 03rd August 1989 order of the trial court.

On 15 February 1990, following the filing by respondent Republic of its reply to petitioners' motion seeking the dismissal of the case, the trial court issued its denial of said motion to dismiss.[6] Five (5) days later, or on 20 February 1990,[7] another order was issued by the trial court, declaring moot and academic the motion for reconsideration and/or suspension of the order of 03 August 1989 with the rejection of petitioners' motion to dismiss. Petitioners' motion for the reconsideration of the 20th February 1990 order was likewise denied by the trial court in its **16th April 1991** order.[8]

Petitioners then lodged a petition for certiorari and prohibition with the Court of Appeals. In its now disputed **15th January 1992** decision, the appellate court dismissed the petition on the ground that the remedy of appeal in the ordinary course of law was an adequate remedy and that the petition itself, in any case, had

failed to show any grave abuse of discretion or lack of jurisdictional competence on the part of the trial court. A motion for the reconsideration of the decision was denied in the 23rd July 1992 resolution of the appellate court.

We begin, in this present recourse of petitioners, with a few known postulates.

Eminent domain, also often referred to as expropriation and, with less frequency, as condemnation, is, like police power and taxation, an inherent power of sovereignty. It need not be clothed with any constitutional gear to exist; instead, provisions in our Constitution on the subject are meant more to regulate, rather than to grant, the exercise of the power. Eminent domain is generally so described as "the highest and most exact idea of property remaining in the government" that may be acquired for some public purpose through a method in the nature of a forced purchase by the State.[9] It is a right to take or reassert dominion over property within the state for public use or to meet a public exigency. It is said to be an essential part of governance even in its most primitive form and thus inseparable from sovereignty. [10] The only direct constitutional qualification is that "private property shall not be taken for public use without just compensation."[11] This proscription is intended to provide a safeguard against possible abuse and so to protect as well the individual against whose property the power is sought to be enforced.

Petitioners assert that the expropriation has failed to meet the guidelines set by this Court in the case of Guido v. Rural Progress Administration,[12] to wit: (a) the size of the land expropriated; (b) the large number of people benefited; and, (c) the extent of social and economic reform.[13] Petitioners suggest that we confine the concept of expropriation only to the following public uses,[14] **i.e., the** -

> "x x x taking of property for military posts, roads, streets, sidewalks, bridges, ferries, levees, wharves, piers, public buildings including schoolhouses, parks, playgrounds, plazas, market places, artesian wells, water supply and sewerage systems, cemeteries, crematories, and railroads."

This view of petitioners is much too limitative and restrictive.

The court, in Guido, merely passed upon the issue of the extent of the President's power under Commonwealth Act No. 539 to, specifically, acquire private lands for subdivision into smaller home lots or farms for resale to bona fide tenants or occupants. It was in this particular context of the statute that the Court had made the pronouncement. The guidelines in Guido were not meant to be preclusive in nature and, most certainly, the power of eminent domain should not now be understood as being confined only to the expropriation of vast tracts of land and landed estates.[15]

The term "public use," not having been otherwise defined by the constitution, must be considered in its general concept of meeting a public need or a public exigency. [16] Black summarizes the characterization given by various courts to the term;

thus:

> "Public Use. Eminent domain. The constitutional and statutory basis for taking property by eminent domain. For condemnation purposes, 'public use' is one which confers same benefit or advantage to the public; it is not confined to actual use by public.It is measured in terms of right of public to use proposed facilities for which condemnation is sought and, as long as public has right of use, whether exercised by one or many members of public, a 'public advantage' or 'public benefit' accrues sufficient to constitute a public use. Montana Power Co. vs. Bokma, Mont. 457 P. 2d 769, 772, 773.
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> "Public use, in constitutional provisions restricting the exercise of the right to take private property in virtue of eminent domain, means a use concerning the whole community as distinguished from particular individuals. But each and every member of society need not be equally interested in such use, or be personally and directly affected by it; if the object is to satisfy a great public want or exigency, that is sufficient. Rindge Co. vs. Los Angeles County, 262 U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186. The term may be said to mean public usefulness, utility, or advantage, or what is productive of general benefit. It may be limited to the inhabitants of a small or restricted locality, but must be in common, and not for a particular individual. The use must be a needful one for the public, which cannot be surrendered without obvious general loss and inconvenience. A 'public use' for which land may be taken defies absolute definition for it changes with varying conditions of society, new appliances in the sciences, changing conceptions of scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation. Katz v. Brandon, 156 Conn., 521, 245 A.2d 579,586."[17]

The validity of the exercise of the power of eminent domain for traditional purposes is beyond question; it is not at all to be said, however, that public use should thereby be restricted to such traditional uses. The idea that "public use" is strictly limited to clear cases of "use by the public" has long been discarded. This Court in Heirs of Juancho Ardona v. Reyes,[18] quoting from Berman v. Parker (348 U.S. 25; 99 L. ed. 27), held:

> "We do not sit to determine whether a particular housing project is or is not desirable. The concept of the public welfare is broad and inclusive. See DayBrite Lighting, Inc. v. Missouri, 342 US 421, 424, 96 L. Ed. 469, 472, 72 S Ct 405. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. In the present case, the Congress and its authorized agencies have made determinations that take into account a wide variety of values. It is not for us to reappraise them. If those who govern the