Supreme Court E-Library

WHEREFORE, in view of the foregoing, this petition shall be as it is hereby ordered dismissed.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio Herrera, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-33145. March 30, 1979]

ELIGIO P. BUENAVENTE, *ET AL.*, *petitioners, vs.* HON. ALEJANDRO MELCHOR, *ET AL.*, *respondents.*

SYLLABUS

1. **CIVIL LAW; PUBLIC LAND; OCCUPATION BY MERE TOLERANCE CAN BY NO MEANS RISE TO A RIGHT THAT THE LAW SHOULD PROTECT IN THEIR FAVOR AS AGAINST THE TRUE LEGAL OWNERS.** — The fact that the occupants built their house with the knowledge and consent of the lot-owner, a government corporation, is not sufficient to vest in them any right which they can assert against the lot-owner when the latter demands that they vacate the premises on legal and justifiable grounds. When their continued occupation of the lot becomes one against the will of the owner, even if the latter had allowed their occupation at the beginning without even collecting rentals, the owner is certainly not barred, under any known principle of law, either by estoppel or waiver to demand that the lot be vacated so that he may himself enjoy his dominical and possessory rights thereto. Said occupants have no right to continue in occupation of the land whether, as legally defined, they are squatters or not. Their occupation

Supreme Court E-Library

by mere tolerance can by no means rise to a right that the law should protect in their favor as against the true legal owners.

2. ID.; ID.; LAND OWNED BY A GOVERNMENT CORPORATION IS PUBLIC LAND. — A parcel of land owned by a government-owned corporation is a "public land" in the board acceptation of these words.

3. CONSTITUTIONAL LAW; SOCIAL JUSTICE; HOUSING; GOVERNMENT NOT PRECLUDED FROM ABANDONING A HOUSING PROJECT. — The presidential directive which allows the temporary use by a state college of a uncompleted tenement building does not conflict with Republic Act 3469, which authorizes the construction of tenement buildings for the poor, since the directive does not totally and permanently deprive the intended beneficiaries of their expected enjoyment thereof under the tenement housing statute. It is merely a temporary expedient impelled by an urgent public necessity which plainly assumes higher priority over what the beneficiaries would want to enjoy for their own personal benefit. And even if the project were entirely abandoned for tenement housing purposes, the Government would not run afoul of the law, as it could very well erect tenement buildings elsewhere it may be deem more useful and advantageous to the intended beneficiaries, in pursuance of the purpose of the law. The Government is not precluded from abandoning a project it has started upon a realization of either a mistake in the choice of the site for such project, or that the site first chosen could more usefully be devoted to another public purpose. What the President did in the premises could involve a mere question of policy into which the courts cannot inquire.

4. ID.; ID.; ID.; INTENDED BENEFICIARIES OF A HOUSING PROJECT HAVE NO VESTED RIGHT BEFORE COMPLETION THEREOF. — The intended beneficiaries of tenement housing projects may not claim any vested right by the mere fact that the Government lot on which their houses were erected was chosen for a tenement housing project site. but upon consideration of a more pressing public necessity, the project had to be abandoned.

5. ID.; ID.; ID.; AUTHORITY OF PRESIDENT TO APPROVE RULES AND REGULATIONS. — The authority of the President to approve rules and regulations to be promulgated for the

Supreme Court E-Library

implementation of the Republic Act 3469, "An Act Authorizing the Construction of Multi-Storey Tenement Building Projects, for the poor and Appropriating Funds Therefore," implies, at least, a discretion on his part to order the use of the building before its completion, for other than tenement housing purposes. In its uncompleted condition, the building may not be turned over yet to the PHHC, as ordained by Section 3, of Republic Act 3469. If in the meantime, the President finds it necessary to use the building, while still in a condition not quite ready for dwelling purposes, for an imperative public purpose, his action cannot be held repugnant or contrary to Republic Act 3469.

6. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; DECLARATORY RELIEF; MAY BE DISMISSED FOR LACK OF CAUSE OF ACTION.** — Lack of cause of action justifies the dismissal of a petition for declaratory relief filed by the occupants of a government lot to be declared first priority applicants of the tenement housing built near their place of abode pursuant to a tenement housing statute (Rep. Act 3469), where it appears that the application of priorities as established in the Rules and Regulations upon which petitioners predicate their claims to be allocated the rooms of the uncompleted building has not yet arisen. Since they have not acquired any right entitled to legal protection, and without being possessed of such right, they have no cause of action.

7. **ID.; PROVISIONAL REMEDIES; INJUNCTION; SHALL BE DISSOLVED IF THE PETITION IS DISMISSED.** — Where a restraining order has been issued upon the filing of a petition, the dissolution of said restraining order would be but a necessary and logical consequence of the dismissal of the petition.

APPEARANCES OF COUNSEL

Gerardo Payno for petitioners.

Solicitor General Felix Q. Antonio, Acting Assistant Solicitor General Rosalio A. de Leon & Solicitor Enrique M. Reyes and *Special Counsels Ernesto P. Fernandez* and *Luis S. Miro* for respondents.

Supreme Court E-Library

DECISION

DE CASTRO, *J.*:

The petitioners, numbering thirty three (33) family-heads, with houses erected on the river bank portion of a lot owned by the National Development Corporation (NDC for short) located at Pureza Street, Sta. Mesa, Manila, filed in the CFI of Manila on April 30, 1970, a petition for Declaratory Relief and Prohibition with Preliminary Injunction against the respondents with prayer for the issuance of a writ of preliminary injunction to prevent the demolition of their houses and their relocation to Carmona, Cavite, as was threatened to be done by respondent Sebastian Santiago, Officer-in-Charge of the Presidential Assistant on Housing Resettlement Agency in a letter dated April 15, 1970 addressed to the petitioners. They also pray that after trial, they be declared first priority applicants of the tenement housing unit built near their place of abode, pursuant to Republic Act No. 3469, entitled "An Act Authorizing the Construction of a Multi-Storey Tenement Building Projects, for the Poor and Appropriating Funds Therefor."

A restraining order was issued on April 25, 1970, by Judge Jose G. Bautista as prayed for by petitioners. On May 5, 1970, respondents filed their answer with an opposition to the issuance of a writ of preliminary injunction, alleging that petitioners are mere squatters on the lot in question and are, therefore, without any legal right to be protected either by declaratory relief or by a writ of prohibition; that while a building intended for tenement purposes had been constructed, it was only partially completed as such because the purpose for which it was constructed was abandoned for the reason that the entire site with the uncompleted building has been alloted as school site and classrooms by the Office of the President for the use of the Philippine College of Commerce (PCC). The Answer also questions the propriety of the remedy availed of because declaratory relief is proper only when the petition therefor is brought before, not after, a breach of the contract or statute has been committed, and prohibition being an extraordinary remedy, is available only if

Supreme Court E-Library

there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law, but which is not so because they could, and should have, exhausted administrative remedies by seeking a reconsideration of the letter-order of the President dated March 3, 1969 for the occupancy by the PCC of the uncompleted Tenement Building at the NDC compound.

On September 14, 1970, Hon. Serafin Cuevas, who took the place of Hon. Jose G. Bautista, after hearing the parties in argument, amplified by their respective memorandum, (pp. 62-74; pp. 75-79, *Rollo*), issued an order dismissing the petition, and dissolving the restraining order issued on April 25, 1970. (pp. 80-89, *Rollo*). A motion for reconsideration was filed supported by a Memorandum (pp. 90-96; 97-100, *Rollo*), but opposed by the respondents (pp. 104-106, *Rollo*). On January 18, 1971, petitioners filed a notice of appeal from the order of the court *a quo* (p. 114, *Rollo*), and the Record on Appeal was approved on February 8, 1971 (p. 115, *Rollo*). However, on March 19, 1971, petitioners filed the present petition for *certiorari* which was given due course on March 24, 1971 (p. 136, *Rollo*).

Respondents' Answer was filed on May 14, 1971 and the issues as joined are those which have been assigned as errors of the *court a quo* by the petitioners to wit: (1) whether the *court a quo* erred in holding that petitioners are squatters; (2) whether *court a quo* erred in holding that petitioners have no right to be protected under Republic Act No. 3469 and Rules and Regulations promulgated to implement it; (3) whether the *court a quo* erred in dissolving the restraining order earlier issued by Judge Jose G. Bautista; and (4) whether the *court a quo* erred in holding that the PCC being a government operated entity is of preferred category.

(1) In denying that they are "squatters" on the NDC lot, as they were so held by the *court a quo*, petitioners rely on the following definition of a squatter; "one who settles on the land of another without any legal authority. This term is applied particularly to person who settle on the public land." (3 Mart. La. U.S. 293; 5 Bles. U.S. 530). (Cyclopedic Law Dictionary by Shumaker and Longsdorf). From this definition, petitioners

Supreme Court E-Library

can derive no comfort from the fact that they built their houses allegedly with the knowledge and consent of the NDC, and that the lot is not a public land.

What the above definition contemplates is a right that owes its source from the law, and which, accordingly may be protected by and under the law. Having built their houses with the knowledge and consent of the NDC which is a government-owned corporation, is not sufficient to vest in them any right which they can assert against the lot-owner when the latter demands that they vacate the premises on legal and justifiable grounds. (*John O. Yu vs. Maximo de Lara*, L-16084, November 30, 1962, 62 O.G. No. 2, p. 6226; *City of Manila vs. Garcia*, L-26053, February 21, 1967, 19 SCRA 413). When their continued occupation of the lot becomes one against the will of the owner, even if the latter had allowed their occupation at the beginning without even collecting rentals, the owner is certainly not barred, under any known principle of law, either by estopped or waiver, to demand that the lot be vacated so that he may himself enjoy his dominical and possessory rights thereto.

In any case, petitioners have no right to continue in occupation of the land, whether, as legally defined, they are squatters or not. Their occupation by mere tolerance can by no means given rise to a right that the law should protect in their favor as against the true legal owners. That the land is a public land can neither be denied as to give any semblance of plausibility to petitioners' contention that they are not squatters under the definition they have invoked because the land is not a public land. It is owned by the NDC; hence a "public land" in the broad acceptation of these words.

(2) The law they invoke, Republic Act No. 3469, as giving them the right to occupy units in the still uncompleted tenement building which has been abandoned for the purpose of its construction as originally intended, for a more overriding necessity identified with a greater public interest, neither confers upon them the right they claim to be entitled to, and to be respected by the government itself. There is, as the Solicitor General correctly observes, no conflict between Republic Act No. 3469

Supreme Court E-Library

and the presidential directive embodied in the letter of March 3, 1969. This letter, which petitioners prefer to call "executive order," allows only the temporary use of the tenement building by the PCC. It did not direct a permanent use of the building that would totally and permanently deprive appellants of their expected enjoyment thereof under the tenement housing statute. It is merely a temporary expedient impelled by an urgent public necessity which plainly assumes higher priority over what petitioners would want to enjoy for their own personal benefit. And even if the project were entirely abandoned for tenement housing purposes, as so alleged in the Answer, the Government would not run afoul of the law, as it could very well erect tenement buildings elsewhere it may deem more useful and advantageous to the intended beneficiaries, in pursuance of the purpose of the law. The Government is certainly not precluded from abandoning a project it has started upon a realization of either a mistake in the choice of the site for such project, or that the site first chosen could more usefully be devoted to another public purpose. The petitioners herein may not claim any vested right by the mere fact that the NDC lot was chosen for a tenement housing project site, but upon consideration of a more pressing public necessity, the project had to be abandoned, either temporarily or permanently. The same project can be transferred elsewhere with a view to pursuing the objective of Republic Act No. 3469.

Furthermore, Section 3 of the aforecited Act provides that after the completion of the tenement buildings, the same shall be turned over to the People's Homesite and Housing Corporation (PHHC) which shall allocate the rooms by lottery. If at all, it is therefore only after the tenement building has been fully completed that petitioners may apply for occupancy of the rooms, which have to be allocated by lottery, but not till then. That the building has not been completed, for a cause, not involving a violation of Republic Act No. 3469 cannot be discounted, such as lack of funds which dictates perhaps the temporary abandonment of the project. Petitioners miserably failed to show that such a possibility should be ruled out as giving justification for the non-prosecution of the tenement housing project to

Supreme Court E-Library

completion, instead of diverting it to another purpose. What the President did in the premises could involve, as it apparently does, a mere question of policy into which the courts cannot inquire (*Palanan Lumber and Plywood Co. vs. Arranz, et al.*, L-27106, March 20, 1968, 22 SCRA 1186).

(3) Petitioners' claim of the *court a quo* having unceremoniously and thus erroneously, dissolved the restraining order issued on April 25, 1971, on September 14, 1971 hardly merits any consideration. The dissolution of the restraining order was but a necessary and logical consequence of the dismissal of the petition as ordained by the *court a quo* in its Order issued on September 14, 1971, as the said Order itself so states.

(4) Finally, petitioners except to what the *court a quo* said "that the uncompleted tenement housing building was assigned not to a private individual of the less preferred category as ordained by the pertinent rules and regulations, but to an educational institution, the Philippine College of Commerce which is owned, managed and operated by the Government. While it is true that petitioners may be preferred as against any other group of eligible applicants, such priority must be understood as subservient to a need of public purpose — the use thereof for school purposes by the PCC which is immediate and imperative." Petitioners argue that as the legislative body has laid down the policy in enacting Republic Act No. 3469, any act of the executive department not conducive to that policy must be held to be illegal, such as the directive of the President assigning to the tenement building constructed pursuant to Republic Act No. 3469, a purpose alien to that as expressly stated in the law, which, according to petitioner, would then amount to repealing the law by executive action, not by legislation, as it should be.

The directive contained in the letter of the office of the President dated March 3, 1968, is not in any sense a violation of Republic Act No. 3469, or in disregard of its purpose. The law merely authorizes the construction of tenement buildings for housing purposes, appropriating funds therefor. The law does not prohibit the use of a tenement building before the building has been completed and the rooms thereof have been

Supreme Court E-Library

allocated to eligible occupants, for another public purpose, specially when the use is only temporary and is of an urgent character. The President is vested with authority to approve the rules and regulations to be promulgated for the implementation of Republic Act No. 3469. This authority, at least, implies a discretion on his part to order the use of the building, before its completion, for other than tenement housing purposes. In its uncompleted condition, the building may not be turned over yet to the PHHC, as ordained by Section 3 of R. A. No. 3469. If in the meantime, the President, finds it necessary to use the building, while still in a condition not quite ready for dwelling purposes, for an imperative public purpose, We perceive no reason or cause to hold his action repugnant or contrary to R.A. No. 3469. The application of the priorities as established in the Rules and Regulations upon which petitioners predicate their claims to be allocated the rooms of the uncompleted building has not yet arisen. As already stated, they have not acquired any right entitled to legal protection, and without being possessed of such right, they have no cause of action, a ground fully justifying the order brought to Us for review, dismissing their petition for declaratory relief and prohibition with preliminary injunction.

WHEREFORE, the instant petition for *certiorari* is hereby dismissed, without special pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio Herrera, JJ.,* concur.