134 Phil. 464

[G.R. No. 25573. October 11, 1968]

NATIONAL WATERWORKS AND SEWERAGE AUTHORITY, PETITIONER, VS. HON. MINERVA I. PIGUING, JUDGE OF THE COURT OF FIRST INSTANCE OF PAMPANGA, THE MUNICIPALITY OF SAN FERNANDO, THE CITY OF ANGELES, THE MUNICIPALITY OF GUAGUA, AND THE MUNICIPALITY OF MACABEBE, RESPONDENTS.

D E C I S I O N

CONCEPCION, C.J.:

Original petition for *certiorari* with preliminary injunction to annul two (2) orders of Honorable Minerva I. Piguing, as Judge of First Instance of Pampanga, one dated December 29, 1965, and another January 14, 1966, and to restrain, meanwhile, the enforcement of said orders.

Petitioner herein is the National Waterworks and Sewerage Authority, hereinafter referred to as NAWASA. The respondents are said Judge Piguing, and the Municipalities of San Fernando, Guagua and Macabebe, as well as the City of Angeles, hereinafter referred to collectively as the municipal corporations. It appears that, purporting to act in pursuance of Republic Act No. 1383, during the year 1958, NAWASA took over the possession, operation and control of the waterworks systems of said municipal corporations, without paying any compensation therefor. Hence, on September 30, 1961, said municipal corporations commenced civil case No. 2026 of the Court of First Instance of Pampanga, against NAWASA to recover their respective waterworks systems, as well as damages. In their complaint, the municipal corporations prayed, also, for a writ of preliminary mandatory injunction, to restrain NAWASA from enforcing said Republic Act No. 1383, during the pendency of the case.

After the filing of NAWASA's answer - admitting some allegations of the complaint, denying other allegations thereof and setting up special defenses and a counterclaim - and the submission of the reply thereto of the municipal corporations, said Court, - then presided over by Hon. Ladislao Pasicolan, Judge - held on March 16, 1963, a pre-trial, at which it was agreed between the parties: (1) that the only issue for determination in the case was the fair and reasonable value of the properties involved; (2) that the parties would submit a complete inventory thereof; (3) that the same would be set for hearing, to determine the correctness thereof; (4) that, after the approval of said inventory, the Court would appoint a committee of appraisal; and (5) that, after the value of the

aforementioned properties had been settled, such other issues as the parties may raise shall be heard.

Accordingly, inventories were filed and an appraisal committee was organized, which, subsequently, submitted its report. On December 11, 1965, the prayer of the municipal corporations for a writ of preliminary mandatory injunction was heard. Later, or on December 29, 1965, said Court - then presided over by Judge Piguing - issued one of the orders complained of. Premised upon the finding that "the continuous exercise" by NAWASA "of its jurisdiction, supervision and control over the waterwork systems without paying just compensation to the x x x municipal corporations, would be detrimental to their rights of dominion over their respective waterworks system x x x ", and that the Supreme Court had, in several cases,[1] declared Republic Act 1383 "unconstitutional, as it carries out a transfer of dominion" which is "in the nature of expropriation of private property," said order of December 29, 1965 concluded as follows:

> "IN VIEW THEREOF, this Court finds the petition for a mandatory preliminary injunction meritorious pending the final determination of this complaint. Wherefore, let a writ of mandatory preliminary injunction be issued, enjoining and restraining the defendant NAWASA from its administration, supervision, operation and control of the waterworks system of the municipalities of San Fernando, Guagua, Macabebe, Angeles (now City of Angeles) until further order of this Court."

On January 7, 1966, NAWASA filed a motion for reconsideration, which was resolved by an order dated January 14, 1966. This order states that, "taking into consideration" the assurance given by counsel for the NAWASA to the effect that, "given seventy-two (72) hours or three (3) days," the NAWASA would be "able to x x x deposit x x x the amount corresponding to the net book value of the waterworks systems" in question, to wit:

"For the Municipality of San Fernando	- P382,608.48
For the City of Angeles	- 303,745.94
For the Municipality of Guagua	- 193,078.15
For the Municipality of Macabebe	- 115,942.65"

as "agreed upon by the parties x x x during the pre-trial x x x before x x x Judge x x x Pasicolan" and as recommended by the appraisal committee, the Writ of Preliminary Mandatory Injunction issued on December 29, 1965, was suspended for seventy-two (72) hours, beginning from January 14, 1966, "to give a chance to the x x x NAWASA

to make the corresponding deposit" of said amounts, with the understanding that otherwise, said writ "shall stand and be duly implemented," as well as reiterated.

Thereupon, or on January 26, 1966, NAWASA commenced the present action for *certiorari* with preliminary injunction, alleging that respondent Judge had acted "with grave abuse of discretion or without or in excess of jurisdiction" in issuing said orders of December 29, 1965 and January 14, 1966, because NAWASA had always been agreeable to pay the amounts claimed by the municipal corporations in their original complaint and inventories; because, instead of maintaining the status quo, the writ of preliminary mandatory injunction issued by respondent Judge had changed or upset conditions that had been in existence for over four (4) years; because, being a possessor in good faith, NAWASA could not be deprived of its possession without payment of the improvements it had introduced in the waterworks systems aforementioned; and because the imposition upon NAWASA of the obligation to deposit the sums set forth in the order of January 14, 1966, was unreasonable. Upon the posting and approval of a bond in the sum of P50, 000, we issued the writ of preliminary injunction prayed for by NAWASA.

The petition herein is manifestly devoid of merit for: (1) the proprietary rights of the municipal corporations to the waterworks systems in question are admitted; (2) so is their right to compensation therefor and petitioner's obligation to pay said compensation; (3) it is not disputed that petitioner had taken said properties without making the requisite payment; (4) as early as August 31, 1959, we had declared[2] that Republic Act No. 1383 - on which petitioner relies - is unconstitutional, a insofar as it authorizes the taking of local waterworks systems without providing for an effective payment of just compensation[3] so that petitioner must have been aware of this fact over two (2) years before the institution of the main case in the lower court; (5) the amounts set forth in the order of January 14, 1966, are admittedly the book value of the properties in question; and (6) petitioner's counsel had expressed its readiness and willingness to make the deposit complained of, within the period specified in said order.[4]

In short, we find that respondent Judge had neither committed a grave abuse of discretion nor exceeded her jurisdiction in issuing the orders complained of, for which reason, this case is hereby dismissed, and the writ of preliminary injunction issued by this Court dissolved, with costs against the petitioner.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, Fernando, and *Capistrano, JJ.,* concur.
Zaldivar, J., did not take part.

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[1] Mun. of La Carlota *v.* NAWASA, G.R. No. L-20232, Sept. 30, 1964; Mun. of Naguilian *v.* NAWASA, L-18540, Nov. 29, 1963; City of Cebu *v.* NAWASA, L-12892,

April 30, 1960; City of Baguio *v*. NAWASA, L-12032, August 31, 1959.

[2] City of Baguio *v*. NAWASA, 106 Phil. 144, 155-156.

[3] Municipality of San Juan *v*. NAWASA, L-22047, August 31, 1967; NAWASA *v*. Hon. Catolico, etc., et al., L-21705, April 27, 1967; The Province of Misamis Occidental *v*. NAWASA, L-24327, April 27, 1967; Municipality of Compostela *v*. NAWASA, L-21763, December 17, 1966; Municipality of La Carlota *v*. NAWASA, L-20232, September 30, 1964; Naguilian *v*. NAWASA, L-18540, November 29, 1963; Cebu *v*. NAWASA, L-12892, April 30, 1960.

[4] Section 1, Rule 58, Rules of Court; Manila Electric Railroad & Light Co. *v*. Del Rosario, 22 Phil. 433, 437; Calo *v*. Roldan, 76 Phil. 445.

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